88416

Ack + refer to passport clerk

E. C. P.

No 1246.

made by Mr Bingham

United States Legation,
Japan,
Tokei, February 1, 1881.

DEPARTMENT OF STATE
MAR 9 1881
RECEIVED

Mr Bingham
to the
Hon Secretary of State.

A. B.

Error

Subject.
Report of passports issued during the year ended December 31, 1881.

Enclosures.
Duplicate statement of passports.

No 1246.

United States Legation,
Japan,
Tokei, February 2, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

I have the honor to report that during the year ended the 31st of December 1880 I issued two passports to citizens of the United States, viz: to Miss Lizzie MacManus and Mr Peter T. Dickinson, as will be seen from the enclosed duplicate statement. No other passports were issued.

I have the honor to be,
Sir,
Your obedient servant,
Wm A Kingham

No 1246.

Enclosure.

Statement of Passports issued from the United States Legation at Tokei, Japan during the year ended December 31, 1880.

March 8th, 1880. No 23 to Miss Lizzie MacMamus, a citizen of the United States born at Springfield, Massachusetts. Passport issued upon affidavit of citizenship and upon Miss MacMamus' subscribing to the oath of allegiance.

March 25, 1880. No 24 to Mr Peter T. Dickinson, his wife Mrs Hester A. and his child Mabel, all natural born citizens of the United States. Mr Dickinson took the oath of allegiance and made affidavit that he was born at Nineveh in the State

of New York.

The fees received for these passports, ten dollars ($10.00), were credited to the United States in my account for the Quarter ended March 31st, 1880. See my Nos 1095 and 1096.

Wm. A. Seaghers
United States Minister

No 1246.

Enclosure (duplicate)

Statement of Passports issued from the United States Legation at Tokei, Japan, during the year ended December 31, 1880.

March 8th, 1880, No 23, to Miss Lizzie MacManus, a citizen of the United States born at Springfield, Massachusetts, a Passport issued upon affidavit of citizenship and upon Miss MacManus' subscribing to the oath of allegiance.

March 25, 1880. No 24, to Mr Peter T. Dickinson, his wife Mrs Hester A., and his child Mabel, all natural born citizens of the United States. Mr Dickinson took the oath of allegiance and made affidavit that he was born at Nineveh in the State of New York.

The fees received for these passports, ten dollars $10.00), were

credited to the United States in
my account for the Quarter ended
March 31, 1880. Jno. C. Bridgman
See my Nos 1095 & 1096 United States Minister.

File

File

Made

No 1247.

United States Legation,
Japan,
Tokei, February 7, 1881.

Mr Brigham
to the
Hon Secretary of State.

Subject.

Acknowledging receipt of Instruction No 553 and circular of the 20th December. Application has been made for lists of signal letters of Japanese merchant vessels.

No 1247.

United States Legation,
Japan,
Tokei, February 7, 1881.

Hon William M. Evarts,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to acknowledge the receipt of Instruction numbered 553 and also of your Circular in Instruction No 1 of date the 20th of December last, in relation to the request of the Secretary of the Treasury for the latest lists of the signal letters by which Japanese merchant vessels are distinguished.

Touching the latter Instruction I beg leave to acquaint you that I have addressed a note to His Excellency Mr Wooyeno, Acting Minister for Foreign Affairs, in which I request to be furnished

with

with the latest signal letters &c.
and also acquainting him that
our Government would be glad
to establish "with that of Japan
" a regular and prompt Exchange
" of the future publications of the
" lists in question for the mutual
" benefit of the Commerce of the
" two nations".

The signal lists,
together with the reply of
this Government to my note
will be promptly transmitted
when received by me.

I have the honor to be,
Sir,
Your obedient Servant,
Mc A Bingham

Bureau of Statistics
C.R.

Wade
2
Mr Scanlon

No 1248.

United States Legation,
Japan,
Tokei, February 7, 1881.

DEPARTMENT OF STATE
MAR
1881
RECEIVED

Mr Bingham
to the
Hon Secretary of State.

Subject.

Enclosing a pamphlet Mr Okuma showing the financial condition of Japan for 1868-80; the amount of paper currency, of the national debt, of revenue and expenditure &c. &c.

Enclosures.

Duplicate copies of Mr Okuma's book.

No 1248.

United States Legation,
Japan,
Tokei, February 7, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

Herewith I beg leave to enclose for your information duplicate copies of an interesting paper issued by His Excellency Mr Okuma, one of His Majesty's Comeillors, entitled "A "General View of Financial Policy during "Thirteen Years (1868-80)."

Mr Okuma was for many years His Majesty's Minister of Finance.

According to His Excellency's estimate (page 4) the revenue and Expenditure of the Government, respectively, for eleven and half years were as follows: revenue yen 649,560,000; Expenditure yen 596,040,000; leaving a surplus unexpended of yen 69,630,000.

It

It seems to me to be due to this distinguished man to say that it appears (page 6) that notwithstanding the reduction of the tax on lands in 1877, causing a loss of revenue from that source of yen 8,200,000 annually, nevertheless by reason of "rigid economy in administration" the revenue showed a surplus in 1877-78 of more than six million yen in gross.

The paper shows the total amount of paper money in circulation in the Empire from 1868 to 1880 (page 8), and that last year the sum total thereof was yen 108,680,000.

The national debt, almost exclusively domestic, is stated (page 12) to have been in 1880 yen 249,360,000, which is five million yen less than in 1878, when the debt, as stated, reached its maximum.

On pages 22-23 the several subjects of revenue or taxation are specified and shown to have been only forty

nine

nine in number, or fifteen thousand and forty five less than in 1874.
The fact is also to be noted that the total revenue from all sources was in 1879-80 yen 54,550,000, of which yen 41,000,000 was derived from land tax. Doubtless it will occur to you that we have shown Japan a better way by raising our national revenue in time of peace exclusively from imposts upon foreign imports and by taxes upon luxuries &c. &c. thereby relieving the land and the growers of our bread from any tax thereon for national purposes, save when rendered absolutely necessary by a state of war, which, happily, has been the exception, not the rule of our national life.
Without following further the statements of Mr Okuma, I submit his paper as worthy of consideration and of a place in our records.

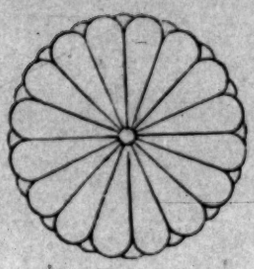
I have the honor to be,

Sir,

Sir,

Your obedient servant,

Wm A Singhurst



A GENERAL VIEW

OF

FINANCIAL POLICY

DURING

THIRTEEN YEARS (1868-80)

TOKIO.

1881.

A duplicate Copy of this
volume will be forwarded
when obtained

D. W. Lewis

A GENERAL VIEW

OF

FINANCIAL POLICY

DURING

THIRTEEN YEARS (1868-80)

TOKIO.

1881.

The Reports on the Estimates and on the Final Accounts as well as the Annual Reports of the Minister of Finance which have been from time to time presented supply sufficient detailed information with respect to the national finance to give a complete idea of what it has been during the thirteen years which have elapsed since the Restoration. Most of these Reports, however, deal only with a single financial year or some special measure, and the explanations they contain are confined within these particular limits, so that they do not present a connected account of what has preceded or followed. Any one therefore, who desires to understand the character of our financial policy since the Restoration must take the trouble of consulting all the Reports which have appeared during the whole of this period. Having been honoured at one time with the post of Minister of Finance, and since then presided over the direction of our financial policy as a member of the Cabinet, I have been induced to compile a short history of what has been done since the Restoration, adding at the same time some scattered observations on the principles upon which various measures were adopted, to which I have given the title of "General View of Financial Policy during Thirteen Years." This I now have the honour to lay before your Excellency, in the hope that it may be found of use in forming a clear idea of the measures carried out during that period.

November 1880.

(*Signed*) OKUMA SHIGENOBU.
Councillor of State.

H. E. SANJO SANEYOSHI.
Prime Minister of State.

"A GENERAL VIEW OF FINANCIAL POLICY DURING THIRTEEN YEARS."

The national finances are not only necessarily influenced by every reform initiated by the government, but also receive a shock from every calamity which befalls the country. They are in fact intimately affected by every thing which happens. It is of importance, therefore, in seeking to understand the character of our financial policy during the thirteen years which have elapsed since the Restoration, to look back upon the reforms made in our institutions and the numerous misfortunes which have befallen us during that period. Amongst the former the three most important reforms carried out by the government have been the abolition of the Shôgunate and the establishment of the Sovereign's authority, secondly the abolition of the feudal system and the creation of a central administration, thirdly, the release of the hereditary military class from the functions hitherto attributed to it, and the conversion of their pensions into government bonds. By these reforms institutions which dated from six centuries back were removed, and in the space of little more than ten years a revolution was accomplished to which the history of no other country can furnish a parallel. On the other hand three grave misfortunes have befallen us during the last thirteen years, firstly the war of the Restoration against the *Daimiôs* of the East and North of the country, secondly, the Formosan expedition and the complications with China, thirdly the insurrection in Kiushiu. The influence of these reforms and misfortunes was not confined to the period which gave each of them birth, but extended over two or three subsequent years. In addition to them, if we reflect on the many smaller reforms and smaller troubles which have taken place, we shall perceive that no year has been without disturbing effect upon our finances.

In order to convey a clearer idea of the character of our financial policy during the last ten years, I will divide the subject into seven headings, namely Revenue and Expenditure, Paper currency, National debt, Taxation, Banks, Government Assets and the general

condition of the country, dealing with them each in turn. If the facts set forth be carefully considered, the character of our financial policy during these ten years and more of disturbing influences will be rendered evident, and it will be seen that, in spite of the difficulties that have constantly beset us, no efforts have been spared to apply effective remedies.

I

REVENUE AND EXPENDITURE.

The final accounts have been made up for the years beginning with 1868 down to the 9th financial year 1876. The accounts of receipts and disbursements have been closed for the financial years 1877 and 1878, and the final accounts of actual income and expenditure can be roughly determined, but as the date for the closing of the books for 1879 has not yet arrived, we cannot arrive at the totals, and we shall not take this year into our calculations for the moment. I proceed therefore to give a table showing the comparative Revenue and Expenditure for the period beginning with 1868 and ending in 1879.

Year.	Revenue.	Expenditure.	Surplus.	Deficit.
	Yen			
1868	33,080,000	30,500,000	2,580,000	.....
1869	34,430,000	20,780,000	13,650,000	.....
1870	20,950,000	20,100,000	850,000	.....
1871	22,140,000	19,230,000	2,910,000	.....
1872	50,440,000	57,730,000	.....	7,290,000
1873	85,500,000	62,670,000	22,830,000	.....
1874	73,440,000	82,260,000	.....	8,820,000
1875	86,320,000	66,130,000	20,190,000	.....
1875-76	69,480,000	69,200,000	280,000	.....
1876-77	59,480,000	59,300,000	180,000	.....
1877-78	52,440,000	48,530,000	3,910,000	.....
1878-79	61,860,000	59,610,000	2,250,000	.....
Totals	649,560,000	596,040,000	69,630,000	16,110,000

Leaving a surplus of 53,520,000 for the 11½ years.

The object of the present memorandum being merely to give the salient facts of our financial history, all figures below 10,000 yen have been omitted. They can be learnt by referring to the original Reports.

It will be seen from the preceding table that during this period of 11½ years there are only two years, namely 1872 and 1874, which show a deficit, while during the other nine the Revenue constantly exhibits a surplus, so that at the end of the period there is a total surplus of 53,520 yen. This sum has been transferred to the Reserve, in accordance with the established regulations, to form a fund for the redemption of the National Debt.

A reference to the Report on the Final Accounts for the period beginning with 1868 and ending with the first half of 1875 will show that during each of the first five years, namely from 1868 to 1872 an issue of paper currency took place. It must be remembered therefore that the surpluses shown in the foregoing table are due to the fact that the actual revenue during those five years being insufficient, paper currency was issued to meet the deficiency.

During the years 1868 and 1869 the whole machinery of government had to be organized, while the war in the North and East was still raging. Although the year 1870 was on the whole quiet, the following year was marked by a great reform, the abolition of the *Han* and the division of the country into prefectures, and the business of the Executive enormously increased in consequence, the influence of which was still felt in 1872. Thus the first five years were years of much difficulty and labour for the State, and there was little time for considering whether the revenue was sufficient to meet all requirements. In 1872 too, the issue of paper money was stopped, and no addition was made to the currency from that time until the insurrection of 1877.* For these reasons if we try to learn from the facts of Revenue and Expenditure whether the government has been wise or extravagant, we ought to look at the Revenue and Expenditure of the 6½ peaceful years which succeeded.

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*Note. Although an issue of paper money was made in connection with the insurrection in Kiushiu, the accounts of the suppression of the insurrection have been made up separately and the paper money issued at that occasion was not included in the income of 1877, and does not concern this table of Revenue and Expenditure. This is the reason, in discussing the foregoing table, for saying that no paper money was issued after the year 1872. If the Expenditure on the suppression of the rebellion had been included under Expenditure for that year, it would have become necessary to set down under the head of Revenue the paper money issued and the loans contracted. In that case the Revenue of the year in which this insurrection took place would show an additional surplus of 440,000 yen, but it has been thought better to adhere to the form of the Annual Budgets and Reports of Final Accounts, and to omit the cost of its suppression from both sides of the Account.

As appears from the foregoing table, five of the six and a half years which succeeded to 1873 showed a surplus of Revenue over Expenditure, and the year 1874 was the only one in which there was a deficit. The cause of this was not the ordinary business of government, but, as was explained in the Report on the Final Account for that year, an extraordinary expenditure took place, consisting of the grant of 7,650,000 yen to persons who had voluntarily surrendered their hereditary pensions, the payment of 1,500,000 yen on account of the Shimonoseki Indemnity and 3,180,000 yen the cost of the Saga insurrection and the Formosa expedition, together amounting to 12,330,000 yen.

Summarizing, then, the results of the finance of these 6½ years, we find that, deducting the 8,820,000 yen of extraordinary expenditure incurred in 1874, there is still a balance of 40,820,000 yen to the good, or an annual average surplus of 6,280,000 yen.

In the beginning of 1877 the land tax was lowered by Imperial decree to 2½ per cent upon the assessed value, yielding at the present assessment a sum of 41,060,000 yen, so that by this abatement of taxation the revenue of the government was diminished to the extent of over 8,200,000 yen. Nevertheless the year 1877-78 and 1878-79 showed surpluses of 3,910,000 yen and 2,250,000 yen respectively. So that if that abatement had never been made, the average surplus of those two years would have been over 11,000,000 yen.

The causes which enabled the Government Revenue, in spite of the repeated calls made upon it by the gradual extension of the administrative system, to show such elasticity during the 6½ years following 1873, were on the one hand the rigid economy practised by all departments of the administration in the performance of the services assigned to them, and on the other the annual growth of the yield of other taxes, in spite of the fact that no new ones of any importance were imposed and no addition made to those which already existed.*

As shown already, the total surplus from 1868 down to the end of June of 1879 amounted to 53,520,000 yen, while the Reserve Fund at the beginning of the July 1879 stood at 50,900,000 yen.

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* Note. The fact that no great addition was made to the schedule of taxes during these 6½ years in fully explained in the chapter on taxation. See below.

The surplus for the year 1876-77, amounting to 180,000 yen, 3,000,000 yen of that of 1877-78 and 1,380,000 yen of the Reserve, were appropriated to the fund for redeeming paper currency (the amount involved being deducted). The balance of the year 1877-78, amounting to 910,000 yen, and that of 1878-79 had not yet been added to the Reserve, and deducting these from the total surplus of the 11½ years, the Reserve at the beginning of 1879-80 ought to have stood at 45,800,000 yen. The reason of its being stated at 50,900,000 yen is that the capital appropriated for the industries carried on by various government departments, hitherto included in the year's expenditure, the temporary loans made to various companies, and the profits made on the Reserve Fund, were all placed to its credit.

II.

PAPER CURRENCY.

For some years after the Restoration, when the subjugation of the North and East, reforms in the system of government, foreign relations and the gradual organization of different branches of administration, demanded constant outlay, the government was unable to collect the whole of the taxes due from the former dominions of the Shôgunate, now under its own direct rule, and even had it been possible to obtain all the arrears, the whole would not have sufficed to meet even its ordinary expenditure alone. As the territorial nobility still continued to exercise the powers of government within their own districts, the Central Government was not able to obtain from them more than an annual contribution of about 700,000 yen for military purposes. There was moreover a deficiency of capital in the country, and as only a very short time had elapsed since the Restoration it would have been impossible for the government, during the first five or six years of its existence, to raise sufficient by way of internal loans to defray its expenditure. Under these circumstances, it being unable either to increase the taxation or to contract a domestic loan, while it at the same time desired to meet both the ordinary and extraordinary charges to which it was put both by the existence of civil war and the necessity of organizing for the first time a whole administrative system, a resort to the issue of a

paper currency became absolutely unavoidable. The following table shows the amount of paper money in circulation during each year from 1868 to 1880 inclusive, and the cause of its increase or decrease from time to time.

Year.	Total amount in Circulation	Amount not due to issues of the govt.	Amount issued by the govt.	Increase in amount issued by the govt.	Decrease in amount issued by the govt.
	Yen				
1868	24,030,000	.....	24,030,000	.....	.....
1869	48,000,000	.....	48,000,000	23,970,000	.....
1870	53,350,000	.....	53,350,000	5,350,000	.....
1871	80,430,000	24,930,000	55,500,000	2,150,000	.....
1872	99,360,000	26,040,000	73,320,000	17,820,000	.....
1873	97,660,000	25,190,000	72,470,000	.....	850,000
1874	95,940,000	24,240,000	71,700,000	.....	770,000
June of 1875	94,800,000	23,720,000	71,080,000	.....	620,000
" of 1876	94,050,000	23,130,000	70,920,000	.....	160,000
" of 1877	94,050,000	23,130,000	70,920,000	.....	.....
" of 1878	120,920,000	23,000,000	97,920,000	27,000,000	.....
" of 1879	113,420,000	22,920,000	90,500,000	.....	7,420,000
" of 1880	108,680,000	22,910,000	85,770,000	.....	4,730,000

It will be observed, on considering the figures above given, that while there was a gradual increase in the amount issued by the government during the five years beginning with 1868, until at one time it reached something over 13,000,000 yen, there was a gradual annual decrease during the four succeeding years (1873-1876), and that though it suddenly rose in 1878 to over 97 millions, the years 1879 and 1880 show a decrease again. From this it can be seen that though the government under the pressure of unavoidable emergencies has for the moment issued fresh paper money, it has always applied itself, the emergency once passed, to reducing the amount again, and that it has never made an addition to the currency for the purpose of meeting its ordinary requirements.

I will now briefly recapitulate the chief state necessities which caused the issue of papermoney by the government. The largest issues during these 13 years took place on three occasions namely, firstly in 1868 and 1869, secondly in 1872 and thirdly in 1877-1878. In 1868 when our institutions were being established amid the din of civil war, the whole of the Revenue from ordinary sources

amounted to no more than 3,660,000 yen and the government was driven to add to its income by borrowing from Native and foreign merchants. The loans thus obtained, together with the monies handed over by the Shôgunate, and fines or gifts from the *Daimiôs*, amounted barely to 5,380,000 yen, or a total from ordinary and extraordinary sources, of about 9,040,000 yen. On the other hand, its extraordinary Expenditure during this year reached the enormous figure of 25,000,000 yen, leaving a deficit of 15,900,000 yen.* This was the cause which forced them to have recourse to the issue of paper money.

In 1869 the civil war was still proceeding, and the ordinary revenue was only 4,660,000. By loans from native and foreign merchants, and the recovery of sums left in the treasury of the Shôgunate, the whole revenue ordinary and extraordinary was brought up to 10,470,000 yen, while the total of ordinary and extraordinary expenditure was 20,780,000 yen, showing a deficit of 10,310,000 yen. It was this that rendered necessary the further issue of paper money. The year 1872 was the year after the abolition of the *Han* and the redivision of the country into prefectures, and the administrative sphere was correspondingly extended, causing the ordinary and extraordinary expenditure to be increased to 57,730,000 yen in all. It was not found possible, however to collect all the revenues which had hitherto been enjoyed by the *Daimiôs*, and the income from ordinary and extraordinary sources did not exceed 32,610,000 yen, leaving a deficit of 25,200,000 yen, partly met by an issue of paper money to the amount of 17,820,000, which still left a deficit of 7,280,000 yen. In 1877-78 when the rebellion in *Kiushiu* took place, the ordinary revenue was of course insufficient to defray the extraordinary expenditure. The revenue of that year was 52,440,000 yen and the ordinary expenditure 48,530,000 yen, giving a surplus of 3,910,000 yen, but the charges for the suppression of the rebellion reached the enormous figure of 41,560,000 yen, and thus a further issue of paper money became imperative.

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*Note. The amount of this deficit was arrived at years after, when the final accounts were made up, but does not represent the actual state of the exchequer at the time, which was actually far worse, and thus the ascertained deficit does not exactly correspond to the figures above given of the amount of paper money issued in that year.

In considering the history of the several issues necessitated by the causes stated above, it must be remembered that the largest amount first reached, namely 73,320,000 yen, took place when the districts under the direct rule of the government were confined to what had been the territory of the Shôgunate, the *Han* not yet having been abolished, and secondly, just after the abolition of the *Han*, before the government was able to collect the revenues previously paid to the *Daimiôs*. After the year 1873, when the government, having abolished the *Han* and subdivided the country into prefectures, had more or less perfected the administrative system, no paper money was issued, except during the rebellion year. The year 1872 is therefore the year of the first maximum, and 1877-78 that of the second maximum.

When the first paper money was issued, it was the intention of the government to redeem the whole within 13 years, but owing to the continuance of the war in the North and East during 1868 and to the inhabitants of the chief cities being unaccustomed to the use of paper money, as well as to other causes, it fell to an abnormal discount (as compared with gold and silver), being depreciated at one time as low as 55 per cent. The government was therefore forced to establish a fixed rate at which it would be accepted in payment of taxes concurrently with coin. In 1869 the government determined to take effectual measures for bringing it up to par, and in June of that year rescinded the decree making the paper currency redeemable in thirteen years, announcing that it should either be redeemed in coin by the end of 1862, or if that were not done, that interest at the rate of 6 per cent should be paid upon the whole amount in circulation. It further notified its intention to abandon the issue of a further large quantity of paper money which had been contemplated, and to destroy the machinery that had been erected for that purpose, and further that any one found offering a discount upon paper money should be fined. From this time the credit of the currency increased with the stability of the government, and no one hesitated to accept it. The 13 years during which it was to be in circulation having thus been diminished to five, its stability constantly improved, until in the year 1873, the five years' term having been passed, the government in fulfilment of its promises, and with the object of contracting the circulation, issued the "Bonds in Exchange for Kinsatsu", by which they under-

took to pay 6 per cent interest on all amounts of paper currency which might be offered in exchange for these Bonds. But as the credit of the paper currency was daily improving, while there was a general need of capital for carrying on business, there was a very small demand for these Bonds. During the next four years, that is up to 1876, a constant decrease took place in the amount of paper money in circulation, until the outbreak of the Satsuma rebellion in 1877 necessitated the additional issue of 27 millions of yen. In 1878 a scheme was adopted for the amortization of every species of public debt in 28 years, the redemption of the entire paper currency included.

The "Bonds in Exchange for Kinsatsu" bear interest at the rate of 6 per cent per annum payable in gold, and they are to be redeemed within fifteen years at par, also in gold. The plan was intended to combine two advantages; firstly, when the rate of interest fell below 6 per cent in gold owing to an excess of paper-money in circulation, the holders would be at liberty to exchange them for public bonds, while the government would be enabled to withdraw enough paper money to maintain the circulation at an amount suitable to the requirements of the country; and secondly whenever the paper currency fell below par, the holders would be able to obtain Bonds of which the interest was payable in specie. But owing to the fact that the rate of interest since the Restoration has averaged over 10 per cent, the first advantage sought for by the creation of these Bonds was not attained, and the number of applicants for them was so few, that the amount issued scarcely exceeded 2,200,000 yen. Of late years, owing to the depreciation which has taken place in the value of the paper currency, the number of applicants has increased, and Bonds have been issued to a further amount of somewhat over 2,700,000 yen.

The history of the issue of paper money since the Restoration, with the causes that led to it, has now been narrated. It now remains to inquire, by comparison with the expenditure of all kinds, whether this paper money issued during the last 13 years, and now forming a part of the liabilities of the government, is to be looked upon as having been employed to meet ordinary charges, or whether it has been applied to the payment of war expenses. This question will be fully discussed with the aid of the figures under the next heading, that of National Debt.

III

NATIONAL DEBT.

The first instance of the issue of Bonds by the government for the purpose of raising a loan was the Foreign Loan contracted in 1870, although it had borrowed money on temporary loan from both natives and foreigners as early as 1868. In that year it borrowed from its own subjects 3,830,000 yen, and from foreigners 890,000, making a total liability of 4,720,000 yen. In 1869 it borrowed from the Japanese people 810,000 yen and from foreigners 100,000 yen, a total of 910,000 yen, thus incurring in the course of those two years liabilities to the amount of 5,630,000 yen. But all of these were repaid by the year 1871. In addition to this, the government repaid by the end of 1875 over 5,700,000 yen of foreign debt and 2,000,000 yen Domestic debt, amounting in all to 7,700,000 yen, liabilities incurred by the Shôgunate and the Daimiôs. The amount of national debt repaid by the government between 1868 and 1875, and which is consequently excluded from the statement of the actual liabilities of the country at the present date, is no less than somewhat over 13,300,000 yen.

The following table shows the variations in the total amount of the outstanding national liabilities from year to year (exclusive of the paper currency).

Year.		Amount of unredeemed liabilities.
Dec.	1870	4,880,000
„	1871	4,880,000
„	1872	4,880,000
„	1873	31,540,000
„	1874	37,410,000
June	1875	47,480,000
„	1876	54,870,000
„	1877	242,170,000
„	1878	254,320,000
„	1879	249,890,000
„	1880	249,360,000

The maximum was reached in 1878, since which year there has been a gradual decrease. The great increase during the years 1873 to 1876 is due to the new Foreign Loan, and to the recognition of the liabilities known as the "Old" and "New" Domestic Debt."

The increase in 1877 is owing to the creation of the "Pension Bonds" and the loans contracted to meet the expenses connected with the suppression of the Satsuma rebellion, that of the year 1878 to the "Industrial Works Loan" and the issue of Bonds to former Shintô priests in place of their pensions.

The Amounts given in the foregoing table are obtained by adding together the public debts of all kinds, the designations, amount raised and objects of which are briefly stated as follows:

1. Old Domestic Debt, issued in 1873	10,970,000 yen
2. New Domestic Debt, issued in 1873	12,410,000 yen
Total	23,380,000 yen

These were debts incurred by the *Daimiôs*, the responsility of which was assumed by the government after the abolition of the *Han*, when the government undertook their liabilities as well as the administration of their territories.

3. Voluntarily Capitalized pension Bonds ... issued from 1874 and after	16,560,000 yen
4. New foreign Loan 1873.....	11,710,000 yen
5. Capitalized Pension Bonds 1877.....	173,630,000 yen
6. Bonds issued to ex-shintô priests 1878.....	420,000 yen
Total	202,320,000 yen

These liabilities arose out of the commutation of the hereditary pensions formerly enjoyed by the nobles, the military class and Shintô priests. Had this reform not been effected, the annual expenditure must have continued to be forever burdened with a charge for pensions much larger than the interest which has to be paid on the foregoing descriptions of public debt. By it these perpetual hereditary pensions were converted into a public debt redeemable at a fixed period, and the interest does not constitute any addition to the annual charges for which the government is liable.

7. Bonds in exchange for Kinsatsu from 1873	4,960,000 yen

As has been explained in the preceding chapter, these were issued for the purpose of contracting the paper currency.

8. Old Foreign Loan issued in 1870.....	4,880,000 yen
9. Industrial Works Loan issued in 1878.....	12,500,000 yen
Total	17,380,000 yen

These loans were raised for domestic improvements, such as the construction of railways, the improvement of harbours and roads, the dredging of rivers and other reproductive undertakings.

10	Loan for the suppression of the Satsuma rebellion	contracted in 1877. 15,000,000 yen

Amongst the above enumerated descriptions of public liabilities some are debts incurred by the former Daimiós, and others for which the government has become liable are the consequence of institutions bequeathed to it by past ages, and some again were contracted by the government itself in order to carry on the administration. The whole may be divided into two classes, the first being debts which it has inherited from the past, the second debts actually incurred by the present government, as follows:

Inherited from the past.		Incurred by present government.	
	Yen		Yen
Old Domestic Debt	10,970,000	Bonds in exchange for Kinsatsu	4,960,000
New " "	12,410,000	Industrial Loan ...	12,500,000
Voluntarily Capitalized Pension Bonds	16,560,000	Old foreign Loan...	4,880,000
Capitalized Pension Bonds	173,630,000	Loan for suppression of rebellion...	15,000,000
Bonds given to ex-Shintô Priests	420,000		
New foreign Loan...	11,710,000		
Total	225,700,000		37,340,000

These two classes of Bonds, A and B, 263,040,000 yen in all, represent the whole amount issued from time to time up to June 30th, 1880, the maximum amount held by the public at any time being 260,910,000 yen on the 30th June 1878. The amount redeemed up to that date was 6,590,000 yen; subsequently a further issue of 2,130,000 yen took place and Bonds to the amount of 7,090,000 yen were redeemed.

Class A includes six descriptions. Class B four, and while the total of the former is 225,700,000 yen, that of the latter is but 37,340,000 yen, Class B bearing the proportion of about 16½ per-cent to Class A. Class B, the amount of which was expended by the present government, divides itself into two categories, namely

Liabilities incurred for improvements and those incurred in order to supply deficiencies in Revenue. Under the first category come the Industrial works Loan of 12,500,000 yen and the Old Foreign Loan of 4,880,000 yen, while the second comprises the Loan made for the suppression of the Satsuma rebellion, 15,000,000 yen, and the Bonds given in exchange for kinsatsu, 4,960,000 yen. It appears therefore that the amount actually spent by the government is limited to these last two items, which come to but 19,960,000 yen out of a total of 263,040,000 yen of public debt, or about 7.6 per cent of the whole. To resume these figures in a few words, it appears, then, that the debts inherited by the present government from their predecessors are 85.8 per cent of the whole, and the proportion actually incurred by themselves is but 14.2 per cent, of which 6.6 per cent has been devoted to reproductive improvements, the absolute irrecoverable expenditure being but 7.6 per cent.

I have thus stated the causes of the contraction of all public liabilities and the manner in which the proceeds have been employed, with the exception of the paper currency. I will now proceed to discuss the nature of the purposes to which this paper currency, which also forms a part of the national liabilities, has been put, and demonstrate that it may be regarded as having been issued solely to meet an extraordinary military expenditure.

A certain portion of the whole amount still remaining in circulation can be cancelled by means of the Reserve Fund accumulated in the national treasury, and this quantity must first be deducted. Secondly, the paper currency now in circulation, which was issued in exchange for the paper of the *Han*, constitutes a *Han* debt inherited by the present government, and not an addition to the circulation for which it is itself responsible. This amount therefore must also be deducted.* The balance remaining after these deductions have been made alone is to be considered as having been issued by the government, and on inquiry whether it exceeds the extraordinary war expenditure during these 13 years, we find the following results.

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* Note. The reserves kept by the *Han* to meet their paper-currency were handed over to the present government and the amount of these reserves must of course be deducted, the balance being what the government has become responsible for.

Amount of the reserve June 30th 1880.....51,320,000 yen
Han Satsu for which the govt. became liable 19,460,000 yen *A

The total of these two items, 70,780,000 yen, represents paper money not issued by the government, and when deducted from the amount in circulation June 30th 1880, namely 108,680,000 yen, leaves the amount actually issued by the present government at 37, 900,000 yen. The extraordinary war expenses incurred by the government from 1868 down to 1880 are as follows.

From 1868 to the first half of 1875 12,940,000
1877, Satsuma Rebellion.....27,000,000 *B
39,940,000

The total of the war expenditure is 39,940,000 yen, and comparing this with the amount of paper currency after the Reserve and the amount of *Daimiôs* paper money have been deducted, we find that the war expenditure exceeds the issue of paper currency to the following extent.

War expenditure 1868-1880.....39,940,000 yen
Paper currency in circulation which may be regarded as of purely govt. issue.....37,900,000 yen
Excess of war expenditure over issue of paper ..2,040,000 yen

It may fairly be said therefore that the paper currency which forms part of the public liabilities. issued by the government during the last 13 years, has been applied to meet an extraordinary war expenditure, and has not be put forth at random to supply deficiencies in the revenue and to meet the normal expenditure.

The following table severally shows the increase and decrease of the Domestic and Foreign Debt.

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* Note. A 22,910,000 yen of *Han Satsu* in circulation, minus the reserve handed over to the govt. amounting to 3,450,000 yen, gives this remainder.

* Note. B The expenditure for the Suppression of the *Satsuma* rebellion was something over 41,000,000 yen, but part was defrayed by means of a loan, which has been already accounted for in the Chapter on National Debt, and only that proportion of the expenditure which was defrayed by the issue of paper currency need here be stated. The war charges during these 13 years were by no means limitted to the amount here given, but spread into many other branches of expenditure, and I have merely summed up what appears under that heading in the general expenditure of each year.

Year.	Domestic Debt. (exclusive paper currency)	Foreign Debt.
Dec. 1870	"	4,880,000 yen
" 1871	"	4,880,000 "
" 1872	"	4,880,000 "
" 1873	15,440,000 yen	16,100,000 "
" 1874	21,800,000 "	15,610,000 "
June 1875	33.000.000 "	14,480,000 "
" 1876	40,710,000 "	14,150,000 "
" 1877	228,770,000 "	13,390,000 "
" 1878	241,690,000 "	12,620,000 "
" 1879	238,070,000 "	11,820,000 "
" 1880	238,350,000 "	11,010,000 "

It will be seen from the foregoing that the Domestic Debt reached its maximum in 1878, and has since shown a tendency to decline, while the Foreign Debt attained its highest point in 1873, the year when the New Loan was contracted, and that it has decreased with every succeeding year. This is owing to the efficient measures taken by the government for preserving its credit by providing for the amortization of Debt. Deducting the Reserve maintained by the government for the purpose of redeeming the public liabilities and various loans made by it to private undertakings, we find that the total of the public liabilities, including the paper currency as well as the debt proper, has varied from year to year in the following manner.

Year.	Total National Debt.	Reserve & Loans.	Debt Minus Reserve and Loans.
Dec. 1870	58.230.000	.....	58,230,000
" 1871	85,310,000	.....	85,310,000
" 1872	104,240,000	26,280,000	77,960,000
" 1873	129,200,000	32,730,000	96,470,000
" 1874	133,350,000	28,910,000	104,440,000
June 1875	142,280,000	37,540,000	104,740,000
" 1876	148,920,000	37,720,000	111,200,000
" 1877	363,220,000	47,090,000	316,130,000
" 1878	375,250,000	59,360,000	315,890,000
" 1879	363,320,000	58,390,000	304,930,000
" 1880	358,040,000	58,630,000	299,410,000

This table shows that the maximum of public indebtedness was reached in 1877, and that during the three succeeding years of

peace a decrease took place to the extent of 16,720,000 yen, and that since the scheme for the diminution of debt was adopted in 1878, with the intention of totally extinguishing it in 28 years, this plan has been strictly adhered to, while every effort has been made to practise economy in expenditure.

IV

BANKS.

When at the Restoration the policy of maintaining relations of amity and commerce with foreign powers was frankly adopted, and the public mind became re-assured, one of the first facts which struck those who gave their attention to the development of production and trade, was the deficiency of circulating capital, and it was found absolutely necessary, owing to a variety of circumstances which shall be briefly touched upon, to establish banks as a means of facilitating the circulation of money.

The effect of the political reforms made after the Restoration was not confined to the administrative systems, but their influence was generally felt throughout the social fabric, and chiefly in commerce and manufactures. Under the old régime there had existed guilds which enjoyed a monopoly of trade, and these were at once abolished as being opposed to the principles of political economy. A spirit of free competition at once arose, and the old merchants and manufacturers suddenly lost their credit, so that for a time all dealings on credit came to an end, and purchases could only be made for ready money. An immense pressure upon the circulation of money was the result, and the want of capital became seriously felt. In consequence also of the abolition of the *Han* and subdivision of the country into prefectures, the *Samurai* ceased to hold their former offices, and the trade and manufactures which had hitherto profited by the institutions thus done away with, lost credit in consequence, which was an additional cause of the pressure thrown upon the circulating medium. The effects of these changes were felt in a lively manner from 1868 down to 1873.

Although under the old system money could be remitted from one place to another by the agency of the branch establishments maintained by the larger merchants of the old régime in different

parts of the country, the convenience was limited to three or four of the principal cities, while at the same time most of the *Daimiôs* had appointed large merchants to be their agents, who transported the produce of the *Daimiôs'* territories to the chief commercial centres and disposed of them there. These men therefore were generally applied to by any one who had a remittance to make, and when the abolition of the *Han* in 1871 brought with it as a natural consequence the disappearance of these agents, this medium for making remittances was lost to the people. It became necessary therefore to establish banks which should undertake this business of making remittances.

The government for these reasons encouraged the establishment of banks, and two or three companies which bore a certain resemblance to banks were actually started. But they were not formed upon a satisfactory system, and the consequence was the promulgation of the National Banks Law in 1872. In 1873 the First and Fifth National Banks commenced business, followed by the Second and Fourth in 1874. But during 1873 and 1874 some of the wealthiest merchants in Japan (such as Ono and Shimada) closed their doors, and a large number of smaller houses were dragged down by their fall. Distrust took hold of the public mind and commercial credit was injured. Owing to this and other causes the money market became very tight, and the government was eventually compelled in 1877 to establish a fixed legal rate of interest.

About this time (that is in 1876 and 1877) took place the commutation of the hereditary pensions of the military class into Public Debt Bonds. Now this class, beyond the functions which had appertained to it under the régime that had passed away, was ignorant of the ordinary means of gaining a livelihood, and now being suddenly released from those functions, was greatly in danger of falling into a state of indigence and perhaps into pauperism, unless some calling could be found for its members. The government consequently, with the object of finding a means by which the military class could turn their Public Debt Bonds to account in obtaining a livelihood, and moved also by the want of circulating capital in the country and the general tightness of money, adopted a plan calculated to confer a double benefit, the principle of which was the establishment of national banks by the military class, on the security of the Public Debt Bonds held by them. By this

measure it was hoped that a way of gaining their livelihood would be thrown open to the military class, while the money market would be relieved.

Of the National Banks which originated in this manner those which date from before 1875 owe their existence to the enterprise of the ordinary mercantile class, while those which were founded in 1876 and afterwards were chiefly established by the military class. The following table exhibits the date, of the establishment of the various banks, their number and capital.*

Year	Number	Capital
Dec. 1873	2	3,000,000
" 1874	4	3,450,000
" 1875	4	3,450,000
" 1876	5	2,550,000
" 1877	28	23,156,100
" 1878	126	37,081,100
" 1879	153	40,796,100
" 1880	152	41,921,100

The origin of the establishment of the National Banks was as has first been explained, and now in order to show the effect which their establishment has had upon the rate of interest, I add a statement of the rates changed by the Mitsui firm, showing the rise and fall during the last few years.

Date.	On loans of 10,000 yen and upwards.
1868	14 per cent
1869	13½ "
1870	13.8 "
1871	14 "
1872	13½ "
1873	12.8 "
1874	12½ "
1875	12 "
1876	12 "
1877	11.3 "
1878	11½ "
1879	11.2 "

* NOTE. All banks which obtained license to start are included irrespective of whether they have actually started or not.

It was the high rate of interest from 1868 to 1872 and 1873 that demanded the establishment of banks, and the lower rate since 1877 shows that their establishment has not been devoid of influence.

As I have stated in the previous chapter upon the paper currency, the total amount of paper currency issued by the government and in circulation in 1875 was 94,000,000 yen, and the capital of the banks then existing was about 3,000,000 yen, so that the government paper currency and the notes of the banks together amounted to about 96,000,000 yen. Under these circumstances the government's intention was to raise the banking capital to 40,000,000 yen, and to maintain the amount of paper-money in circulation at about 126,000,000 (the government paper money amounting to 94,000,000 yen and the issue of bank notes to 3,200,000).

But in 1877 a rebellion unfortunately broke out in *Kiushiu*, and to meet the war expenditure necessitated, the government had to issue 27,000,000 yen of paper money. This raised the amount in circulation to a figure somewhat in excess of what had been contemplated when the national banks were established, but the government did not put a stop to the establishment of additional banks, resolving rather to contract its own circulation. This was effected by an alteration of the previous scheme for the reduction of debt, and paper money to the amount of 9,160,000 yen was withdrawn during the two years 1878 and 1879, it being calculated that in this way the whole additional issue of 27,000,000 yen made in 1877 would be withdrawn within six years.*

Not only has the establishment of banks provided every part of the country with facilities for making remittances, but it has imparted a great degree of energy to commercial transactions and profitable enterprises, while it has aided the military class in providing itself with the means of livelihood, as every one can perceive who is personally acquainted with general condition of the country.

V

TAXATION.

Previous to the Restoration each *Daimiô* possessed independent administrative power in his own territories, and it naturally followed

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* Note. For details, see Scheme for the Redemption of Debt.

that the system of taxation, both as regards the trouble of collection and the relative severity of the burden on the tax-payer, differed widely in different parts of the country. Even in the territories of the Shôgunate the taxes levied under various designations were extremely numerous. For the first few years after the Restoration the government made no changes of importance in the system bequeathed to them by the Shôgunate and the *Daimiôs*, but in 1873 it commenced to carry out the reform of the land tax, and in 1875 abolished over a thousand descriptions of miscellaneous taxes which had been levied under the former régime, and from this time the whole people were brought under a uniform law of taxation.

The following statistics afford the means of making a comparison between the number and varieties of tax in 1874, the latest year in which the system inherited from the Shôgunate and *Daimiôs* was followed, and in 1880, the latest year since its abolition.

Number of varieties of tax in 1874.....	1594
" " " " " " 1880.....	49*

Although these 1540 odd kinds of tax were abolished, it must be confessed that they were part of a troublesome system, and yielded very small amounts, so that even if they had been retained the national revenue would not have benefited to any important extent, while their exaction would have excited a feeling in the minds of the people that they were being oppressed. These were the reasons that led to the abolition of the miscellaneous taxes in 1875.

At the present time there are 49 varieties of tax, which may be classed under 19 principal categories, as follows:

Customs Duties.
Land Tax.
Mining "
Companies "
Shooting Licences.
Licences to Horse and Cattle dealers.
Tax on Weights and Measures.

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* Note. The number of varieties of tax in 1880 is 1545 less than it was in 1874. The number of varieties here given is taken from the statement in the notification by which the miscellaneous taxes were abolished, but some amongst them were the same under the different names. Supposing however that this was the case with one half, we have still 700 or 800 for the number of different kinds of taxes under the old régime.

Copyright fees.
Passport & other licence fees.
Druggists' licences.
Attorneys' licences.
Ship and boat tax.
Vehicle tax.
Tax on Produce of the Hokkai-dô.
Tax on alcoholic Liquors.
Tobacco excise.
Stamps.
Postage Stamps.
Stamps on ruled paper for petitions.

Out of these 19 species of tax the land tax is the most important, bearing to the whole taxation of the country the following proportion; in the financial year 1879-80 the whole amount of taxation was..... 54,550,000 yen
of which the land tax yielded ..... 41,900,000 yen
or a trifle less than 8 tenths. This shows that the principal revenue from taxes is derived from the land. As I have before observed, previous to the abolition of the *Han*, every *Daimiô* had his own system of levying taxes, and there were astonishing differences between the rate at which the land tax was levied in different parts of the country. The heaviest rate was $\frac{7}{10}$ of the annual quantity harvested by the peasant,* the lightest being $\frac{3}{10}$ of the produce. Between these there were various other rates, such as $\frac{4}{10}$, $\frac{5}{10}$, $\frac{6}{10}$, so that there was a great want of uniformity in different localities. The land was measured by *chô* and *tan*, but the area of these measurements also varied more or less in different places. These variations were perhaps unavoidable under the feudal system, but when the whole country was brought under the authority of a single government, it was impossible to continue to subject the people to these inequalities. This was the reason why in 1873 the government undertook the reform of the land tax.

The principle of this revision was as follows: The average was

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* Note. It may perhaps seem that with a division of the produce in the rate of $\frac{7}{10}$ to the lord and $\frac{3}{10}$ to the cultivator, the latter could hardly be able to exist, but there were various counterbalancing facts, such as the measurement of the land being underestimated (*sawanobi*), so that the hardship was not so great as this proportion might lead one to suppose.

taken of the actual yield during 5 years, and valued at the average price obtained during the same period. This being taken as the profit on the land, furnished a basis for calculating the capitalized value of the land itself, and the land-tax was fixed at 3 per cent on this value. It was also enacted that a resettlement should take place every six years.*A If this arrangement be translated into the language of the old system, it would be equivalent to "$\frac{3}{10}$ to the lord and $\frac{7}{10}$ to the cultivator," so that compared with the heaviest rates under the old regime it amounts to an abatement of $\frac{3}{10}$ or $\frac{4}{10}$.*B But apart from the care taken to assess the value of the land with exactness, differences of opinion with regard to the value arose out of various complicated circumstances, and, in conformity with human nature, no great amount of gratitude was felt by the peasants for this lightening of their burden, while those on whom the taxes happened to bear a little heavier than before grumbled loudly and angrily, and even to this day peasants now and then present complaints of the assessment being unfair.

Although the landtax had been revised in this manner, the government still felt that it was unjust to make the peasant alone bear the burden of heavy taxation, and recognizing the fact that he was restrained from fully developing his productive powers, they adopted the principle of gradually abating the land tax, while increasing other taxes, so as to remedy the unequal incidence of taxation. In 1877 they consequently made a further reduction in the land tax to the extent of one sixth.

In consequence of this abatement the loss to the revenue was about 8,200,000 yen. But faithful to the principle of lightening the land tax and increasing other species of tax at the same time,

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Note A. Full details can be learnt from the "Land Tax Revision Law."

Note B. It must be remembered that the average price of rice upon which the revision of the land tax was based was about 4 yen 20 sen a *koku*, whereas the price today is over 10 yen. If we were to take the average present price to be 9 yen, and the rate at which it was taken for the revision to be 4 yen 20 sen, and compare the actual amount realized by the cultivator with that which he pays to the government, we should find the proportion to be about "$\frac{9}{10}$ to the cultivator and $\frac{1}{10}$ to the Lord." In the comparison made above of the old and new systems, the benefit of the unassessed lands and lax measurement of the old system was taken into account, and the real proportions taken by the lord and the cultivator were stated; the nominal division of $\frac{7}{10}$ to the lord and $\frac{3}{10}$ to the cultivator was not made the basis of comparison. If this be done, and allowance be made for the unassessed lands and lax measurement, then the $\frac{7}{10}$ to the lord and $\frac{3}{10}$ to the cultivator would come in reality to about equal shares for each.

they have made an annual increase in the latter, as is shown in the following table.

Year.	Customs Duties.	Tax (not land nor customs).
1868	720,000	420,000
1869	500,000	540,000
1870	640,000	450,000
1871	1,070,000	430,000
1872	1,330,000	460,000
1873	1,680,000	2,720,000
1874	1,490,000	4,390,000
1875	1,710,000	7,120,000
1876	1,980,000	6,710,000
1877	2,350,000	6,110,000
1878	2,350,000	8,670,000

Although the amount produced by taxation has increased year by year, no addition has been made to the number of species of tax since the abolition of the *Han*, but on the contrary a decrease has taken place, as shown below.

Year	No. of smaller species of tax
1871	1575
1872	1573
1873	1593
1874	1594
1875	42
1876	48
1877	48
1878	49
1879	51
1880	49

As shown here, no great addition has been made to the kinds of tax, while an increase has taken place in the amount raised by taxation, which may lead to the supposition that the rate of separate taxes may have been raised. This however, with one or two exceptions, is not the case, but the increased yield is the result of a gradual tendency towards development of manufactures, intercommunication and trade.

Irrespective of the decrease in the land tax, the gradual annual increase in the government revenue derived from taxes, is shown in the following table.

1877-78	rough final acct.	47,910,000	yen
1878-79	do	50,900,000	"
1879-80	estimate	51,280,000	"
1880-81	"	54,550,000	"

We may conclude from these figures that the revenue derived from taxation is not decreasing, but on the contrary is on the increase. And from the fact that the principal classes of tax are no more than 19 in number, it can be seen that the government firmly adheres to the principle of sparing and nursing the national resources.

VI

GOVERNMENT ASSETS.

I have now recounted the measures carried out by the government during the last 13 years and described its financial position during that period, and though on the 30th June 1880 the national debt for which it is responsible, including domestic and foreign liabilities and paper currency (and deducting the amount of the reserve and of advances made to private undertakings) amounted to about 299,400,000 yen, its assets are worth a large sum. A part also of the annual expenditure and public debt has been converted into government property, as for instance the railways, telegraph and factories of all kinds. The following is a rough statement of the government assets.

Govt.	Forests (excluding the Hokkaido)	4,672	Square *Ri.*
"	Building Lands	19	do
"	Agricultural Lands	2	do
"	Prairie Lands	126	do
"	Trees	2,226,650,000	
"	Ship Building Yards	3	
"	Arms Factories & Powder Mills	5	
"	Ships	51	
"	Factories	52	
"	Light houses	35	

Govt.	Telegraphs	3,658	*Ri.*
"	Railways	30	do
"	Mines	10	

Besides the above there are a quantity of houses and godowns, to say nothing of the Hokkai-dô, having an area of 5860 square *ri*, the number of immigrants to which island increases annually, while its productions tend to develope in a corresponding ratio, though it is still far from being completely brought under cultivation, as the following statistics show. If its present rate of growth receives no check, it will one day rival the old country in the amount of its productions.

Total area of the Hokkai-dô	5,860	Square *Ri.*
Area of cultivated ground and building land	10	do
Population	211,304	

Although the government has calculated that the whole of the national liabilities can be paid off in 28 years from 1878 out of the annual revenue alone, it is evident that if a fair price were placed upon the above enumerated assets, they would easily suffice to redeem the 299,400,000 yen of debt.

VII

CONDITION OF THE COUNTRY.

In the foregoing account of our financial policy I have frequently referred to the condition of the country as advanced by the undertakings of these thirteen years, and though the three great reforms briefly noticed at the commencement of this paper, the reform of the laws and the encouragement of industries have been by no means insignificant or few, I will merely cite those matters of which we can obtain a clear idea from numerical statistics.

At the time of the Restoration there was no such thing as a telegraph in operation, and for expresses the only available means were men or horses, but immediately after that event the government set to work to construct telegraphs, and the nation speedily awaking to its advantages, the total distance connected by telegraphs was increased by 1880 to 1600 *ri* (4,000 English miles). All the most important towns in the country are now able to communicate

with each other instantaneously. In 1879 we joined the International Telegraph Convention, and telegraphic communication with all parts of the world has since become an easy matter. Compared with the state of things 10 years ago, when the ignorant people cut down the telegraph poles and severed the wires, we seem rather to have made a century's advance.

Previous to the Restoration, with the exception of the posts sent by the *Daimiôs* from their residences at the Capital to their territories, there was no regularly established post for the general public and private convenience. Letters had to be sent by any opportunity that occurred, and a single letter cost over 25 *sen* for a distance of 150 *ri*. But since the Restoration the government for the first time established a general postal service, and in 1879 the length of postal lines was 15,700 *ri* (near 40,000 English miles), and a letter can at any time be sent for 2 *sen* to any part of the country. In 1874 we entered the International Postal Convention, and have thus obtained great facilities for communicating with foreign countries.

It was also this government that, after the Restoration, for the first time constructed railways, and connected the chief open ports with the cities in their immediate neighbourhood. In 1879 over 30 *ri* (75 English miles) of railway were opened, and further extensions have already been undertaken, while many of the people have come to recognize the conveniences they afford.

Although there were lights upon the most important headlands previous to the Restoration, their construction was extremely primitive, and their illuminating power extended but a short distance. Their number, also, was small. But since the Restoration European and American models have been taken, and 35 additional lighthouses have been constructed, besides buoys and beacons, to say nothing of the numerous harbour improvements carried out.

Japanese vessels of native build are inferior to those of European build in the facilities they afford for navigation. In 1871, 4 years after the Restoration, the number of ships of foreign build was no more than 74, but the government encouraged their construction, and by 1878 they reached 377. The government has two shipbuilding yards, one yard for the repair of ships, besides which there is one yard for the construction of ships of the foreign model aided by government and 2 or 3 private establishments of the same

character. The number of vessels of native build in 1876 was 450,000, and in 1878 had reached 460,000.

From the time preceding the Restoration until 1875 the coasting trade was entirely in the hands of foreigners, and Japanese had to travel by foreign mail steamers. But in the latter year, by the aid of the government a mail ship company was formed, and the coasting trade fell into the hands of our own people. This company now runs lines of steamers to Hongkong and China, and is daily extending its business.

Before the Restoration the employment of wheeled vehicles was extremely limited, but after that event their use was widely developed, and the number of carts &c. has increased year by year. In 1875 the number that paid the tax was 220,000, and in 1878 340,000.

Since the Revolution the use of steamers has daily increased, and the Inland Sea, the lakes and larger rivers are now constantly navigated by small steamers employed in the carrying trade.

As regards foreign trade, in 1869 the total amount of imports and exports (1868 being a year of war, we take the figures for 1869) was 33,680,000 *yen*, and in 1879 64,120,000 *yen*. Imports had grown from 20,780,000 *yen* to 36,290,000 *yen*, and exports from 12,909,000 *yen* to 27,830,000 *yen*, in the one case showing an advance from 2 to 3½, in the other from 2 to 5.

In Education, up to the Restoration the schools supported by the *Daimiôs* and private schools were few in number, but since that epoch the educational system has been vastly improved, with a resulting increase in the number of schools. In 1878 of High, Middle and Primary Schools there were altogether 27,600, with 68,000 teachers and 2,319,000 pupils.

Before the Restoration no progress had been made with the colonization of the Hokkai-dô, but since that event that duty has been entrusted to a Commission endowed with absolute powers, and the productions now exhibit a daily growing tendency to develope, postal communication has been established, fisheries and agriculture are encouraged, the number of immigrants has annually increased, and native merchants from the mainland, gradually appreciating the advantages, are extending their trade with the Island.

In conclusion, I am convinced that if we reflect upon the facts, we shall not fail to admit that considering that the government

has broken down the prejudices of centuries, abolished the Shôgunate, resumed the fiefs of the *Daimiôs*, released the military class from its hereditary functions, commuted their pensions, organized the army and navy, reformed the laws and institutions, and accomplished the numerous other results to which I have briefly alluded, all in the space of 13 years, the financial condition which I have described in the foregoing pages is not a bad result after all.

Referred to Mr. Scanlan

No 1249.

United States Legation,
Japan,
Tokei, February 7, 1881.

DEPARTMENT OF STATE
MAR 3
1881
RECEIVED

Mr Bingham
to the
Hon Secretary of State.

Subject.

Monthly Customs Report- December, 1880.
Exports yen 3,047,995 81; imports yen 2,608,615 06. Export of bullion in excess of the import yen 439,380 79.

Enclosures.

Duplicate copies of the report.

No 1249.

United States Legation,
Japan,
Tokei, February 7, 1881.

Hon William M. Evarts,
Secretary of State,
Washington, D.C.

Sir:

I beg leave to enclose for your information the "Monthly Return of "His Imperial Majesty's Customs for the "month of December, 1880", showing the total value of domestic productions exported during the month to have been yen 3,047,995$\frac{00}{}$, and of foreign productions imported to have been yen 2,608,615$\frac{06}{}$, and that the value of exports for the month exceeded the value of imports yen 439,380$\frac{79}{}$.

It also appears that during the month the value of the export of specie and bullion was in excess of the value of the import thereof yen 727,954$\frac{18}{}$.

I

I have the honor to be,

Sir,

Your obedient servant,

Jno A. Singleton

Judge O'Connor.
ack approve & file
O'Connor
March 18. 1881

Received & approved.
March 22 1881.
M. Cutler.

No 1250.

United States Legation,
Japan,
Tokei, February 7th 1881.

Mr Bingham
to the
Hon Secretary of State.

Subject.

Mr Bingham having received the assent of the Consular Officers to the order amending the Consular Court Regulations as to the punishment of murder &c. causes the same to be published with an order that it shall go into effect the 2d inst.

Enclosures.

Duplicate copies of the Amendment and order - Japan Daily Mail, Jan. 28/81.

No 1250.

United States Legation,
Japan,
Tokei, February 7, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

Referring to my No 1226 in which I had the honor to acquaint you that in accordance with Instruction No 535 I had on the 11th of December last ordered and decreed the amendment, as therein stated, of section 22 of title "Criminal Proceedings" of the "Regulations "for the Consular Courts of the United "States of America in Japan", issued November 16, 1870, I now beg leave to inform you that having submitted said order and decree of amendment to the several Consular Officers of the United States in Japan, the same has been returned to me by them endorsed approved and assented to by the said

officers

officers severally.

After the receipt of the approval by our Consular officers in Japan of said order and decree of amendment I did on the 28th ultimo cause the same to be published, with my signature and the signatures and opinions and the assent thereto of my advisers endorsed thereon, in the Japan Daily and Weekly Mail, a journal issued in Yokohama, a copy of which publication is herewith, in duplicate, together with a copy of my order that said amendment should take effect and be in force from and after the 2d instant, of which notice and publication I have duly acquainted our several Consular Officers in this Empire.

In thus ordering and decreeing this amendment and giving thereto the force of law until the same shall be amended or modified by Act of Congress I conformed to your instructions and to sections 4117 and 4118

United

United States Revised Statutes in 1878, page 792.

Hoping that my action as herein stated may meet your approval.

I have the honor to be,
Sir,
Your obedient servant,
Jno. A. Brigham

No 1250.

Enclosure.

Extract from the Japan Daily Mail,
Jany. 28th, 1881.

UNITED STATES LEGATION,

JAPAN,

Tokei, January 27th, 1881.

NOTICE IS HEREBY GIVEN that the following Amendment of Section 22 of the title "Criminal Proceedings" in the "Regulations for the Consular Courts of the United States of America in Japan," published to be in force November 16th, 1870, shall take effect and be in force from and after the 2nd day of February, 1881, the said Amendment having been heretofore, towit: on the 11th of December, 1880, ordered and decreed by me, and the same having been heretofore duly assented to and approved by the several Consuls of the United States of America in Japan as certified by them respectively.

JNO. A. BINGHAM,
Envoy Extraordinary and Minister Plenipotentiary of the United States of America in Japan.

AMENDMENT.

It is hereby ordered and decreed that section 22 of the title "Criminal proceedings" in the "Regulations for the Consular Courts of the United States of America in Japan," adopted November 16th, 1870, be and the same is hereby amended so that the same shall read as follows:—

The punishment of persons convicted of crimes in the Courts of the United States in this Empire, except in such cases as are otherwise provided for by law, shall be as follows:—murder shall be punishable by death; manslaughter shall be punishable by imprisonment for a term not exceeding ten years and a fine not exceeding one thousand dollars; all other felonies shall be punishable as provided by the laws of the United States of America, and for misdemeanors at common law the punishment shall be by fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment at the discretion of the Court.

[L.S.] JNO. A. BINGHAM,
Envoy Extraordinary and Minister Plenipotentiary of the U. S. of America in Japan.

Assented to
THOS. B. VAN BUREN,
Consul General,
Kanagawa, Japan,
December 14th, 1880.

Assented to
J. STAHEL,
Consul,
Hiogo, Japan,
December 17th, 1880.

Assented to
A. C. JONES,
Consul,
Nagasaki, Japan.
December 20th, 1880.

Assented to
W. C. DAVISSON,
Consular Agent,
Hakodate, Japan.
January, 15th, 1881.

I hereby certify that the foregoing is a true copy of the record in the Legation of the United States of America at Tokei, Japan.

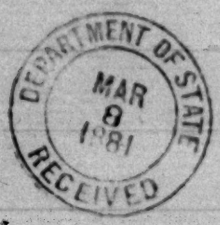
[L.S.] D. W. STEVENS,
Secretary of Legation.

Acknd & Approved
clerk 11, 1881
Mr. Curtis

Approved -
C.P.

made

No 1251.



United States Legation,
Japan,
Tokei, February 8, 1881.

Mr Bingham
to the
Hon Secretary of State.

Subject.

Mr Adolph Russell, an American, makes application to Thos. B. Van Buren, Esq. U.S. Consul Medieval at Yokohama, to be allowed to become a Japanese subject by adoption and marriage. Mr Bingham informs Mr Van Buren, who refers the matter to him, that he has no authority in the premises.

Enclosures.

1. Mr Kono to Mr Van Buren, Janu. 22, 1881.
2. Mr Russell to Mr Van Buren, " 24 "
3. Mr Bingham to Mr Van Buren, " 27 "

No 1251.

United States Legation,
Japan.
Tokei, February 8, 1881.

Hon William M. Evarts,
Secretary of State,
Washington, D.C.

Sir:

On the 25th ultimo Mr Consul-General Van Buren enclosed to me copies of certain official correspondence between himself and the Ken Rei (Governor) of Kanagawa in relation to a petition of Mr Uchiyama Bugayemon, a Japanese subject, for leave "to adopt "one Adolph Russell, a citizen of the "United States residing in Yokohama, "as husband of his third daughter", and also in relation to a communication to Mr Van Buren from Mr Russell on the same subject, copies of which letters of the Governor and of Mr Russell I have the honor to enclose herewith.

and 2/1251

In his answer to the Ken Rei

Mr

Mr Van Buren said, among other things, that "I (he) have no objections to make "to the step in contemplation by Mr "Russell", but added "I (he) will communicate "the matter to the United States Minister "at Tokio, and will advise you (the Kun Rai) "of his views upon the subject when received."
In his letter to me Mr Van Buren requested an expression of my views in the matter.
On the 27th ultimo I made reply to the Consul General, a copy of which is herewith, and stated that, in my opinion, he had "no authority whatever to take "any official action in the premises".
3/1251
Inasmuch as the matter in question is a civil contract on the part of Mr Russell with Mr Uchiyama Buzayemon to become, by the adoption of the latter, the husband of his daughters, and, to that end, to renounce his allegiance to the United States and become a Japanese subject, it seems to me that neither by treaty nor by statute provision have the Consuls of the

United

United States in this Empire any color of authority to officially become parties to such transactions or do any official act therein.

I have the honor to be,
Sir,
Your obedient servant,
Jno. A. Bingham

No. 1251.

Enclosure 1.

Copy.

Government Office,
Kanagawa - translation.

Kanagawa, January 22, 1881.

T. B. Van Buren Esq,
U. S. Consul General,
Sir:

Uchiyama Buzayemon, a commoner at No 130 Tobemachi, Shichome, has made application for permission to adopt Mr Adolph Russell, an American citizen at No 18, Foreign Concession, hotel, as a husband for his third daughter, Yoshi, and I have consequently the honor to ask you whether, Mr Russell being willing, and after his marriage has taken place, you have any objection to his name being expunged from the register as an American citizen - and to his becoming a Japanese subject. I then propose to apply to the Central

Government for the necessary sanction.
Be good enough to make inquiries
and to furnish me with a reply.

I have the honor to be,

Sir,

Your obedient servant,

for- Nomura Yasushi

Kanagawa Ken-Rei

Sgd. Kono Michitomo,

Under Secretary.

No 1251.

Enclosure 2.

Copy.

Yokohama, Janu. 24, 1881.

Sir:

I beg to inform you that I desire to become the husband of Mr Uchiyama Buzayemon's daughter, as requested by him in his petition to the Kencho, which has been forwarded to you.

I have the honor to be,
Sir,
Your obedient servant,
Ad. Russell

To
Thos. B. Van Buren Esq
Consul General for the
U.S. of America,
Yokohama

No 1251.

Enclosure 3.

Copy.

No 1011.

United States Legation,
Tokei, Janv. 27, 1881.

Thomas B. Van Buren Esq,
United States Consul General,
Kanagawa,

Sir:

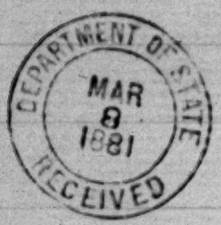
Referring to your No 3062 and its enclosures concerning the several matters therein submitted by you to me, viz: the application to the Kanagawa Ken-Rei of Mr Uchiyama Buzayemon, a Japanese subject, for leave to adopt Mr Adolph Russell an American citizen, "as husband for his third daughter," and the enquiry made by the Ken-Rei, whether you have any objection to the name of Mr Russell "being expunged from your Consular Register as an American citizen and to his becoming a Japanese subject." I have to say that, in my opinion, you have no authority whatever to take any official action in the premises.

I am &c. Jno. A. Bingham

Referred to Gnl O'Connor

Ack & Filed

No 1252.



United States Legation,
Japan,
Tokei, February 9, 1881.

Mr Bingham
to the
How Secretary of State.

Subject.

John M. Ross finally accepts the conditional pardon granted to him by the President with the condition therein that he be imprisoned at hard labor for the term of his natural life in the Albany Penitentiary. Mr Bingham encloses his instructions to Mr Van Buren to obliterate from the original warrant of pardon the refusal of Ross to accept the same with its condition, which the Consul General had endorsed thereon, and to take his acknowledgment of the delivery to him (Ross) of said warrant of pardon and his acceptance thereof with its condition. This having been done. Mr Bingham further advises that Ross be sent under guard to the U.S. in accordance with

the instructions given to Mr Van Buren, copies of which are enclosed.

Enclosures.

1. Mr Bingham to Mr Van Buren, Janᵧ. 31/81.
2. Mr Van Buren to Mr Bingham. Febᵧ 2. "
3. Mr Bingham to Mr Van Buren " 3 "

No 1252.

United States Legation,
Japan,
Tokei, February 9, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

Referring to my No 1175, in which I reported the refusal of John M. Ross, an American seaman, convicted on the 20th May last before Consul General Van Buren of the murder of Robert Kelly, second mate of the American merchant vessel "Bullion", on board thereof when the same was at anchor in the harbor of Yokohama, to accept the conditional pardon of the President, I now have the pleasure to acquaint you that on the 28th ultimo Mr Consul General Van Buren addressed a note to me, in which he informed me that said John M. Ross had then requested him to state that he would accept

the

the conditional pardon of the President heretofore rejected by him, viz: that he be pardoned on condition that he be imprisoned at hard labor during his natural life in the Albany Penitentiary in the State of New York.

On the 31st ultimo I replied to Mr Van Buren, a copy of which reply is herewith, to the effect that he should first obliterate from the original warrant of conditional pardon the endorsement thereon of the rejection thereof by Ross which the Consul General, as I advised you in my No 1175, had placed there contrary to my instructions; and should then sustain the same in the form stated in my instruction to him, enclosure 1 herewith, as follows:—

"I, John M. Ross, the person named
"in the within warrant of conditional
"pardon granted to me by the
"President of the United States of
"America, do hereby acknowledge the
"delivery of said warrant to me, and do hereby voluntarily

without

"without qualification, accept said
"conditional pardon, with the condition
"thereof as therein stated, to wit: that
"'I, Rutherford B. Hayes, President of the
"'United States of America, do hereby
"'pardon the said John M. Ross on
"'the condition that the said John M.
"'Ross be imprisoned at hard labor
"'for the term of his natural life in
"'the Albany Penitentiary in the State
"'of New York';" and that the Consul
General should have Ross sign
the same in his presence and that
he (Mr Van Buren) should attest
said endorsement and certify it
officially.

On the 2d instant Mr Van Buren by
2/ a despatch, a copy of which is enclosed,
1252 advised me that the directions so
given by me had been carried out, and
that the original endorsement of rejection
upon the warrant of pardon had been
obliterated "by the request of the prisoner".
On the 3d instant I made reply to
Mr Van Buren, approving his action

as

as reported in his despatch of the 2d instant, and directed him, in accordance with your instructions, to carry into effect the President's order by sending the prisoner to the United States under proper guard, and to furnish the officer or person charged with the custody and delivery of the prisoner to the Warden of the Albany Penitentiary, New York, with a judicial warrant from his Consular Court, a form for which judicial warrant I suggested and incorporated in my reply, and also to furnish said officer or person so charged with an authenticated copy of the warrant of conditional pardon with the endorsement Certified thereon of the delivery to and the acceptance by said Ross of said pardon with its Condition, a copy of which instruction 3/1252 so given by me I have the honor to enclose herewith.

I am this morning in receipt of a note from Mr Van Buren, in which he informs me that he will send Ross to the United States in charge

of

of Dr A. Latham, a citizen of the United States, on the American steamer "City of Peking," leaving Yokohama about the 1st proximo.

I trust that my action, taken as herein under your Instruction No 526, may meet your approval.

It may be that no further action is needful to be taken on your part to carry into effect the President's order, but I beg leave most respectfully to suggest (unless indeed you have already done so) whether it might not prevent any possible question by the Warden of the Albany Penitentiary about receiving Ross on the judicial warrant of the Consul General &c. if you would cause to be sent directly to the Warden an order of the President directing the Warden to receive John M. Ross from Dr A. Latham under the judicial warrant of the Consul General and commit him to the Penitentiary in Albany, New York, at hard labor for the term of his natural life, in accordance with

the

the condition of the pardon issued by the President on the 6th of August last as shown by the authenticated copy thereof, and which pardon with its condition has been duly delivered to said Ross and the same, with its condition voluntarily accepted by him.

I make this suggestion upon the precedent in the case Dynes versus Hoover, 20th Howards Supreme Court Reports, page 77, opinion of Justice Wayne.

I have the honor to be,

Sir,

Your obedient servant,

Wm. A. Richardson

No 1252.

Enclosure 1.

Copy.

No 1015.

United States Legation,
Tokei, January 31, 1881.

Thomas B. Van Buren Esq
United States Consul General,
Kanagawa,

Sir:

Referring to your despatch No 5064, of date the 28th instant and received by me on the 29th instant, I have to say that inasmuch as you therein acquaint me that John H. Ross, who was convicted on the 20th of May last in your Court of the murder of Robert Kelly, the 2nd officer of the American merchant vessel "Bullion", and on board thereof when the same was lying at anchor in the harbor of Yokohama, Japan, now desires to accept the conditional

pardon so humanely extended to him by the President of the United States of America, dated the 6th day of August 1880, it seems to me needful, as at present advised, to instruct you that it only remains for John H. Ross to sign an endorsement made by you upon the said original warrant of conditional pardon, that the same has been delivered by you to him and that he voluntarily accepts the said conditional pardon with the condition thereof as therein expressed, as I have before instructed you in my No 943, which acknowledgment of the delivery of said conditional pardon and of said voluntary acceptance thereof by said Ross and of the condition thereof as therein stated and expressed, when signed in your presence you will attest and certify thereon under your official seal, as hereinafter directed, and communicate the same to me, when I will be pleased to

further advise you about the transfer of said John M. Ross to the United States and of his delivery to the warden of the Penitentiary at Albany in the State of New York.

I have further to request that you expunge and entirely obliterate from said original warrant of conditional pardon the endorsement thereon of its rejection by said Ross, as made by you and certified to me in your No 4820 of date the 13th of September 1880, and that this be done before you endorse the acceptance by said Ross of the said conditional pardon of the President.

I have further to request that before you receive and endorse his acceptance of the conditional pardon you receive back from said Ross the authenticated copy thereof which you delivered to him without his endorsement thereon of his acceptance of the said conditional pardon with the condition

as therein expressed.

Having thus reinstated the rights of our Government in the premises, I have further to request that you make the following indorsement upon the original warrant of — conditional pardon, and have John M. Ross, the prisoner, sign the same, towit: — I, John M. Ross, the person named in the within warrant of conditional pardon granted to me by the President of the United States of America, do hereby — acknowledge the delivery of said warrant to me, and do hereby voluntarily and without qualification accept said conditional pardon with the condition thereof as therein stated, towit: that "I, Rutherford "B. Hayes, President of the United "States of America, &c &c do hereby "pardon the said John M. Ross "on the condition that the said "John M. Ross be imprisoned at hard "labor for the term of his natural life

" in the Albany Penitentiary in the
" State of New York". When Ross
shall have signed this endorsement
upon the original warrant of a
conditional pardon, the former
endorsement thereon having been
expunged as herein directed, you
will deliver an authenticated copy
thereof to him with a like endorsement,
and you will under your official
seal endorse both the original
and the copy with your certificate
that the said endorsements thereon,
respectively, were signed in your
presence by the said John M.
Ross, and certify the same
to me with the fact that the
endorsement on said original
warrant of conditional pardon
of the refusal of said Ross
to accept the same, as heretofore
reported by you to me, has
been expunged and obliterated.

I desire to save the
life of Ross in accordance

with the laws of my country, which he has atrociously violated, if possible.

I request an early reply to this despatch and an early acceptance by Ross of the conditional pardon tendered to him so graciously by the President of the United States.

I am, Sir,

Your obedient servant

Jas. A. Bingham.

No 1252.

Enclosure 2.

Copy.

No 5075.

U.S. Consulate General
Kanagawa (Yokohama) Japan,
February 2, 1881.

Honorable John A. Bingham,
United States Minister,
Tokio,

Sir:

I beg to acknowledge receipt of your No 1015 of the 31st ultimo enclosing the conditional pardon offered to the prisoner Ross by the President of the United States, and giving me certain instructions in regard thereto. Said instructions have been literally followed in all respects, save in securing from the prisoner the return of the copy pardon, heretofore delivered by me to him, such return having

been accomplished on the 23d of September last, as stated to you by me in my despatch of that date.

You will please find herewith the original pardon, the acceptance of which endorsed thereon was duly signed by the prisoner Ross in my presence as certified by me thereon over my official seal. A copy of said pardon with the said acceptance also signed by Ross and certified by me as so signed and as being a copy of the original, has been by me duly delivered to said Ross.

I have also to state that in accordance with your instructions, and by request of the prisoner, I have caused the endorsement on the original warrant of pardon, rejecting the same and signed by the prisoner, to be erased and obliterated as far as found practicable.

I have &c.

Thos. B. Van Buren

Consul General

Copy

of Endorsement on the original warrant of conditional pardon enclosed with the foregoing despatch.

— " —

I, John M. Ross, the person named in the within warrant of conditional pardon, granted to me by the President of the United States of America, do hereby acknowledge the delivery of said warrant to me, and do hereby voluntarily and without qualification accept the said conditional pardon with the condition thereof as therein stated, to wit: that "I, Rutherford B. Hayes, President of the United States of America, do do hereby pardon the said John M. Ross on condition that the said John M. Ross be imprisoned at hard labor for the term of his natural life in the Penitentiary at Albany in the State of New York."

Sgd John M. Ross.

Yokohama, Japan,
February 2, 1881.

Witness
Thos. B. Van Buren
Consul General.

(over)

U.S. Consulate General
Kanagawa, Japan

I hereby certify that the acceptance of the enclosed pardon was duly signed by the prisoner, John M. Ross, named therein in my presence this 2d day of February 1881, the contents of said pardon and said acceptance having been first carefully read by him.

Witness my hand and official seal the day and year named.

Seal

Thos. B. Van Buren
Consul General

No 1252.

Enclosure 3.

Copy.

No 1016.

United States Legation,
Tokei, Feby. 3d, 1881.

Thomas B. Van Buren Esq.,
United States Consul General,
Kanagawa.

Sir:

I am in receipt of your No 50 7/5, enclosing the original conditional pardon granted by the President of the United States on the 6th day of August last to John M. Ross, an American seaman who was on the 20th of May last duly convicted before you of the murder of Robert Kelly, the 2d officer of the American merchant vessel "Bullion", on board thereof when the same was at anchor in the harbor

of Yokohama. Your action in the premises as reported in your No 5075 is approved and the original warrant of pardon, with the acknowledgment by said John M. Ross of its delivery to him by you and of his voluntary acceptance thereof, without qualification, with its condition as therein expressed endorsed thereon and duly certified by you, is herewith returned to you to be filed and retained in your office.

In accordance with my instructions from the Department I have to request that you will carry the President's order into effect by sending the prisoner John M. Ross to the United States under proper guard, charged with his safe custody and delivery to the Warden of the Penitentiary at Albany in the State of New York. You are also requested to furnish the officer or person

to whose charge you may thus commit the prisoner with a judicial warrant from your Court and also with a copy duly authenticated by you under your official seal of the President's warrant and of the endorsement thereon of the delivery thereof to and the acceptance thereof by John M. Ross with its condition. This authenticated copy of the original warrant of pardon to be delivered by you to the officer or person in charge should be in all respects an exact copy of the original warrant and the endorsement in the copy should also be an exact copy of the endorsement made by you on the original as certified by you thereon of date the 2d instant, and this endorsement on the copy should also be signed by Ross himself and, as before, certified by you. I am thus particular to suggest what is

herein to the end that the requirements of my instructions under the law in this case may be fully carried out, which suggestion I have no doubt it will be your pleasure to follow.

I would further suggest that your judicial warrant to the officer or other person charged with the safe custody and delivery of Ross, the prisoner, to the warden of the Penitentiary at Albany in the State of New York should contain a recitals as follows:—

"To C- D- Whereas on the 10th day of May 1880 John M. Ross, an American seaman, was in due form of law charged before me, the Consul General of the United States of America at Kanagawa (Yokohama) Japan, with having on the 9th day of May 1880 on board the American merchant vessel "Bullion" when the same

was at anchor in the harbor of Yokohama, Japan, feloniously, willfully and of his malice aforethought killed and murdered Robert Kelly, the 2d mate of said vessel; and whereas said John M. Ross was in pursuance of the laws of the United States convicted before me on the 20th day of May of said murder as charged, which conviction was thereafter, towit: on the 22d day of May 1880 duly approved by John A. Bingham, Envoy Extraordinary and Minister Plenipotentiary of the United States of America in Japan; and whereas after said approval by said Minister, towit: on the 21st day of June 1880, the said John M. Ross was in accordance with the laws of the United States sentenced by me to suffer death at such time and place and in such manner as said Minister might direct, in accordance with the laws of the United States; and

and whereas said Minister having, in accordance with the Statute of the United States, suspended the Execution of said sentence and submitted the proceedings as recorded in the premises to the President of the United States of America, who upon consideration thereof did on the 6th day of August 1880 in accordance with said 'pardon said John M. Ross on the condition that the said John M. Ross be imprisoned at hard labor for the term of his natural life in the Albany Penitentiary in the State of New York'; and whereas the President directed the said order to be carried into effect under the direction of the Secretary of State of the United States; and whereas said John M. Ross has duly acknowledged the delivery to him of said warrant of conditional pardon with the condition therein expressed, and whereas the said Secretary of

State has directed that said John M. Ross be sent to the United under proper guard for his safe custody and delivery to the Warden of the Penitentiary at Albany in the State of New York. You, C. D. are therefore hereby commanded to take charge of said John M. Ross and him safely keep in your custody and safely deliver to the Warden of the Penitentiary at Albany in the State of New York in accordance with the order of the President of the United States of America and of the warrant of conditional pardon issued by the President, a copy of which warrant of conditional pardon duly authenticated by me and the delivery of the original of which to the said John M. Ross and of the acceptance thereof by him with the condition therein expressed endorsed thereon and signed

by said John M. Ross, is herewith
delivered to you. Hereof fail
not."

"Given under my hand and official
seal at Kanagawa (Yokohama)
Japan the day of A.D. 1881."

You will please certify
to me a copy of your judicial
warrant and also of the
authenticated copy of the pardon
with its endorsements delivered
by you to the officer or person
to whom you may commit the
custody of Ross for delivery to
the warden of the Albany
Penitentiary.

In my opinion the
sooner Ross is sent to the
United States the better.

I am, Sir,

Your obedient servant,

Jno. A. Bingham

Send notice to Navy Dept for Navy Office
C. P.

Made

Copies to Navy Dept for Hyd. Office Nihon 11.1881 mc enclr.

Treasury for Light House Board 11.1881 mc enclr.

No 1253.

United States Legation,
Japan,
Tokei, February 9, 1881.

Mr Bingham
to the
Hon Secretary of State.

Subject.

Enclosing copy notice to mariners of the showing of a red light from Kagenoshima after March 1st.

Enclosures.

Nine copies of the notice.

No 1253.

United States Legation,
Japan.
Tokio, February 9, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D. C.

Sir:

Herewith I beg leave to enclose nine copies of a "notice to mariners", dated the 3rd instant and issued by this Government, which has been transmitted to me by His Excellency Mr Dooyeno, Acting Minister for Foreign Affairs.

The notice is to the effect that on the night of the 1st of March next and every night thereafter, from sunset to sunrise, a fixed red light of the sixth order will be exhibited from the tower on the northern point of Kagenosima at the entrance to the harbor of Nagasaki, Japan.

I

I have the honor to be,
Sir,
Your obedient servant,
Jno A. Bryan

Substance to Press.
C. P.
Made

No 1254.

United States Legation,
Japan,
Tokei, February 9, 1881.

Mr Bingham
to the
How Secretary of State.

Subject.

Mr Joseph U. Crawford, an American engineer, builds a railroad for the Japanese Gov't. in Yesso. It was completed in less than a year although longer than the railroad built by English engineers between Tokei and Yokohama, and cost about one eighth as much. The Emperor confers a decoration upon Mr Crawford.

No 1254.

United States Legation,
Japan,
Tokei, February 9, 1881.

Hon William M. Evarts,
Secretary of State,
Washington, D.C.

Sir:

It gives me pleasure to say that Mr Joseph U. Crawford, an American engineer has within about one year completed a railway for this Government in the Island of Yesso, twenty three miles in length, equal in all respects to the ~~in~~ railway of eighteen miles as originally constructed between Tokei and ~~in~~ Yokohama, and, as I am advised, ~~in~~ built at one eighth the cost of the latter, which was constructed by English Engineers. I am also advised that the topography of the country over which Mr Crawford constructed this road

in

in Yesso presented much greater
difficulties than the region traversed
by the railway between this Capital
and Yokohama.
The expedition and economy exemplified
by Mr Crawford in constructing this
Road (which, I am glad to say, is
worked by American locomotives and
equipped with American coal, freight
and passenger cars) have commanded
the approval of this Government.
It has pleased His Majesty the Emperor
of Japan to signify his high appreciation
of Mr Crawford by conferring on him
the "order of the Rising Sun".

I have the honor to be,
Sir,
Your obedient servant,
Wm. A. Burlingame

DEPARTMENT OF STATE
MAR 8 1881
RECEIVED

U. S. Legation
Yokei, Japan,
Feb. 10th 1881

The Hon. William M. Evarts
Secretary of State. Washington.
Sir:

I have the honor to enclose herewith my account, duplicate, for Salary for the quarter ending Dec. 31, 1880.

I have the honor to be
Sir: Your obedient Servant.
David Thompson

File.

File W Conn

Cable

RECEIVED
FEB
14
1881
DEPT OF STATE

State Department.
Washington City.

R.

Boss accepts pardon,
Sails March first.

Bingham.
Tokio.

To Navy 2 copies and To Treasury - 2 copies March 28. 1881. Mr. Cridler.

125

DEPARTMENT OF STATE
MAR 25 1881
RECEIVED

United States Legation,
Japan,
Tokio, February 23, 1881.

Mr Bingham
to the
Hon Secretary of State.

Subject.

Enclosing copies of Notice to Mariners as to removal of black buoy off Haneda shoal, Yedo bay.

Enclosures.

Three copies of the Notice.

No 1255.

United States Legation,
Japan,
Tokei, February 25, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

Herewith I have the honor to enclose for your information nine (9) copies of an official notice, given by this Government to mariners, that the black buoy which has been heretofore moored off Haneda shoal, Yedo bay, will be removed on the 1st of July next.

I have the honor to be,
Sir,
Your obedient servant,
Wm A Burlingame

File

No 1256.

United States Legation
Japan.
Tokei, February 25, 1881.

Mr Bingham
to the
How Secretary of State.

Seen by A. R. M.

Subject.

Application has been made for an exequatur to Mr Furber as Vice Consul at Nagasaki.

No 1256.

United States Legation,
Japan,
Tokei, February 23, 1881.

Hon. William M. Evarts,
Secretary of State,
Washington, D.C.

Sir:

Referring to your Instruction No 559, I beg leave to say that I have, in accordance therewith, made due application to His Majesty's Government for the recognition of Mr Twiber in the capacity of Vice Consul of the United States at Nagasaki, and will as soon as the exequatur is received forward the same, with his certificate, through the Consulate General at Kanagawa.

I have the honor to be,
Sir,

Sir,

Your obedient servant,

Wm A. Knighton

File

Ack - (not to be published)

Riddle

No 1257.

United States Legation,

Japan.

Tokei, February 25, 1881.

Mr Bingham

to the

How Secretary of State.

Subject.

The Chinese refuse to sign the Convention with Japan to which they had agreed on the pretext that they must submit it to a local official. It is thought that they will withdraw from this position, as they have in the case of Russia to whose demands they have yielded.

No 1257.

United States Legation,
Japan,
Tokei, February 25, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

Referring to your Instruction No 551, I have the honor to acquaint you that I have verbally conveyed to His Excellency Mr Inouye, the Minister for Foreign Affairs, your acknowledgment of his courtesy in the matter of the information which he was pleased to confidentially communicate to you through me in relation to the settlement of the Lew Chew difficulty between the Governments of China and Japan.

You

You may recollect that in my No 1200, in which I gave you the terms of the settlement agreed upon, as communicated to me by Mr Inouye, I also stated that Mr Inouye had further said to me that "when the "Convention shall have been signed "he will furnish me a copy for the "information of our Government."

I regret to say that the Minister has recently informed me that the Chinese Government has refused to sign the Convention for the present, assigning the feeble and futile excuse for not doing at once what it agreed to do that it is needful before signing the Convention that the Chinese Government shall first submit it for approval to a local Chinese official.

The result is, Mr Inouye informs me

me, that the Japanese Minister in China has taken leave of that Government, and entrusted the ordinary Legation duties to his Secretary as Chargé d' Affaires.

It is hoped that the Chinese Government may finally sign the Convention, and not persist in following the bad precedent which it set in the matter of the treaty with Russia, of which latter proceeding it has become ashamed, as I am confidentially informed by Mr Inouye, and has made its peace with Russia by concluding a satisfactory Convention with that Power and also paying a satisfactory money indemnity.

I have the honor to be,

Sir

Sir,

Your obedient servant,

Mr. A. Hughes

File

Ack

Wadee

No 1258

United States Legation,
Japan.
Tokei. February 25, 1881.

Mr Bingham
to the
Hon Secretary of State.

Subject.

In accordance with instructions Mr Bingham conveys to the Empress the thanks of the President for his expressions of kind regard.

No 1258.

United States Legation,
Japan,
Tokei, February 25, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

Referring to your Instruction No. 557 to me, I beg leave to say that it has given me great pleasure to convey to His Majesty the Emperor, through His Excellency the Minister for Foreign Affairs the very kind message of the President and yourself. I have the honor to enclose a copy of my communication to Mr Inouye.

I have the honor to be, Sir,
Your obedient servant,
M. C. Brigham

No 1258

Enclosure.

Copy.

No 1408.

United States Legation,
Tokei, February 24, 1881.

H.E. Inouye Kaoru,
H.I.J.M. Minister for Foreign Affairs,
Sir:

Inasmuch as it pleased H.M. the Emperor on the 18th of November last on the occasion of the garden party so kindly given to the Diplomatic Corps and others in the Imperial grounds, to express to me his especial regard for the government of the U.S. of America and for me as its representative and to cordially tender to me his "congratulations "upon the election to the Presidency of the "United States of the friend of General "Grant and of myself", and was also pleased to say that "he hoped my "Government would keep me in Japan"

I beg leave to acquaint Y.E. that having deemed it my duty to communicate to my Govt. H.M.'s gracious words of regard for my country and of congratulation above mentioned, it has pleased my Government to instruct me to convey to H.I.M. the very high appreciation which the President of the United States and the Honorable the Secretary of State of the United States have of this voluntary public manifestation by His Majesty of good will to the United States and to further convey to His Majesty the reciprocal sentiments of friendship cherished by my Govt. for that of Japan, "for whose wise and enlightened ruler," I am instructed to say, "only the best wishes for his "personal success and for the prosperity "and happiness of his people are en- "tertained by the Govt. and people "of the United States of America."

Be pleased I pray Y.E., to convey this message of good will from the Govt. of the United States

to H.M. the Emperor of Japan.

I avail myself of this occasion to renew to Y.E. the Expression of my highest regard.

Jno. A. Bingham.

Rec'd to approved March 29. 1881. Mr. Crist.

No 125 Mr Bingham March 18. 1881. Re instructions to and letter from Weston Oyster & Co. of March 3. 81

C. P.

Miadei

United States Legation,
Japan,
Tokei, February 26, 1881.

Mr Bingham
to the
How Secretary of State.

Subject.

Mr Bingham having learned that Mr Van Buren and the other Consuls at Yokohama solicited the Japanese Govt. to erect godowns for the storage of Kerosene oil at Yokohama, which were erected accordingly at great expense; and the Consuls having also approved certain regulations for such storage, and Mr Bingham having been informed that there will be no discrimination, he instructs Mr Van Buren that

the regulations must be respected by Americans and all others.

Enclosures.

1. Storage regulations.
2. Mr Brigham to Mr Van Buren Feby 23/81.
3. Mr Brigham to Mr Inman " 25 "

No 1259.

United States Legation.
Japan,
Tokei. February 26, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

Referring to my No 1241, which I had the honor to address to you on the subject of the storage of kerosene oil by American merchants at Yokohama, I beg leave to say that up to the time I wrote said despatch to you and also the several despatches (copies of which I enclosed with my said No 1241) to Mr Consul General Van Buren and to His Excellency Mr Inouye, the Japanese Minister for Foreign Affairs, I had no notice

from

any source that regulations had been issued and published March 16, 1877, by this Government, providing that Kerosene oil and other inflammable and dangerous substances imported into Yokohama should not be stored in large quantities in the settlement of Yokohama, but outside thereof in the Government ~~...~~ warehouses, neither had I been advised by the Consul General that he and the other Consuls had given said regulations their approval.

Having received from Mr Van Buren on the 10th instant another despatch, with copies of correspondence between himself and the Kewei on the subject of his notification to the Consul General that the China and Japan Trading Company and Messrs Fraser and

and

and Company should not be
permitted to store Kerosene in the
settlement of Yokohama, and it
appearing from said enclosures that
the Governor in a letter to Mr
Van Buren of date the 9th instant
claimed that the action taken by
him in the premises was in
accordance with the spirit of the
"regulations for the storing of
"Kerosene oil", I addressed a note
to Mr Van Buren on the 11th instant,
requesting a copy of said regulations,
with which request he complied
on the 14th instant by forwarding
to me a printed copy thereof,
which copy is herewith enclosed.
In his despatch to me of the 14th
instant transmitting these regulations
the Consul General says, "I (he)
beg

" beg to say in this connection -
" that during all the discussions
" pending the agreement to the
" regulations in question I (he) always
" denied my (his) right to compel
" American citizens to use the
" godowns (warehouses) erected by
" the Japanese Authorities, but
" stated that I (he) would endeavor
" in every proper way to induce
" them to do so." He further adds
" if it should seem to you (me)
" that American merchants are -
" bound to desist storing Kerosene
" in their own godowns and to store
" only in those at Nakamura, I (he)
" submit that the Kenrei is not
" therefore authorized to issue his
" orders to that effect."

You will please observe that, in the preamble to the regulations it

it is stated that the Japanese Government has established at Nakamura a warehouse intended for the storage of kerosene oil and other substances imported into Yokohama, the inflammable nature of which or their storage within the settlement in large quantities renders them dangerous, and that the instructions (regulations) issued by the Kenrei were "approved by the Treaty Consuls," all of which, you will observe, is admitted by Mr Van Buren, as above quoted from his despatch to me.

Being thus advised of the facts above stated and also having learned that the Government warehouses were ample for the purpose intended, having been at great

great expense much enlarged by this government upon the faith of the agreement as made by the Kenrei with the Consuls, and being further informed that the location of the warehouses is readily accessible by water for the landing of the importations, and knowing that the privilege to store on their own lots, which are within the city of Yokohama, had been given only temporarily to Messrs Frazar and Co and to the China and Japan Trading Company, and that the time limited for such storage had expired and since which time they had purchased said lots with full knowledge of said regulations, it seemed to me that the regulations were lawful and just and should be respected by all persons, Europeans as well as Americans. On the 23d instant

J

I accordingly so instructed Mr Van Buren,
2/1259 a copy of which instruction is herewith.
You will please observe that I therein
state that it appears from Mr Van Buren's
correspondence with me that the said
regulations were approved by himself
and the other Consuls at Yokohama,
and further that "it appears also by
" his correspondence with the State
" Department (No 419 of date March
" 9th, 1880) that at his request, aided
" to some extent by his Consular
" colleagues, the Japanese Authorities
" constructed a number of godowns,
" or storehouses, outside the city of
" Yokohama for the storage of kerosene
" oil &c. You will please to note
that I fully acquaint Mr Van Buren
in my instructions of my correspondence
with the Minister for Foreign Affairs
on

on this subject, and that this Government insists upon the observance of the regulations by the citizens and subjects of all Foreign Powers resident in Yokohama, and that I deem it my duty to say to him "that these two "American forms should be required "to conform to the said regulations "issued by this Government, and which "have the force of law", and that the Consul General should notify them accordingly.

While Mr Van Buren has no authority to issue general orders and decrees to prohibit the storage of kerosene in the Yokohama Settlement by Americans or others, he has, in my opinion, authority to enforce Japanese Laws in his judicial capacity against Americans who violate them when complaint is made before him

of

of such violations. In this opinion I consider myself sustained by your approval in the matter of the complaint against Galpin for a violation of the Railway regulations at Kobe (Foreign Relations, 1878, pages 5-14-5-18).

I beg leave further to say that the charges for storage under the regulations are accordingly law, as I am advised, and that other importers of kerosene oil at Yokohama, both Americans and Europeans, have, in conformity with the regulations, stored their oil in the government godowns at Nakamura.

Having been silled in the matter of Mr Van Buren's first dispatch and having addressed the Minister for Foreign Affairs accordingly, to the effect that such discrimination against Kerosene oil alone, as I supposed the fact

to

to be, was unjust, I considered it due to this government and to myself to correct my mistake, and therefore on the 19th instant I addressed the Foreign Minister, Mr Imamye, a note, acquainting him of the fact that I had written him on the 17th ultimo and the 10th instant under a misapprehension and with no knowledge of the regulations for the storage at Yokohama of other importations besides Kerosene oil, and expressing the opinion that if the regulations were administered without discrimination against Kerosene oil or American citizens, they ought to be observed and enforced.

On the 22d instant Mr Imamye made reply to my several dispatches and requested me to instruct the United States Consul General, to the end that the regulations may be observed

by

by Messrs Fraser and Co and the China and Japan Trading Company. In this communication the Minister says the reason his government "established the regulations for the "storage of kerosene oil and erected "at great expense" the godowns at Nakamura was that "the Consuls of the several "Powers applied to the Kuwrii on the "subject", and that the "regulations "met with their approval"; therefore "the foreign subjects and citizens in "Yokohama were lawfully required "to conform to these rules". He further says "I (he) desire to give "your Excellency the assurance that "in the application of these rules "for (storage of) inflammable substances "this Government has never bound "nor attempted to bind citizens of the

United

"United States alone, but the subjects
" and citizens of all Powers alike,
" and that the idea of discrimination
" on the part of this Government or
" the Kenrii of Kanagawa against
" the citizens of the United States
" has never been entertained", and
that "there can be no object on the
" part of this Government to resort
" to such discrimination".

S/1259 On the 25th instant I made reply to Mr Iwanyi, a copy of which reply is herewith, to the effect that I had instructed the Consul General as requested, and had so intimated him upon the assurance so clearly expressed in His Excellency's note of the 22d instant that no discrimination against the citizens of the United States or against articles imported from the United States will be entertained or

Continued

consented to by His Excellency's
Government, and that the said
regulations will be so administered.

Believing that my
final action in the premises, as
herein stated, accords with your
instructions and trusting that
the same may meet your approval.

I have the honor to be,
Sir,
Your obedient servant,
Wm A. Bingham

No 1259

Enclosure 2.

Copy.

No 1031.

United States Legation,
Tokei, Feby 23d, 1881.

Thomas B. Van Buren Esq.
United States Consul General,
Kanagawa,

Sir:

Referring to your Nos 5106 and 5112 in relation to the storage of Kerosene oil at Yokohama and to the regulations adopted by this Govt. in regard thereto, of date March 16, 1877, enclosed in your No 5106, I have to say that it appears from your correspondence with me that the said regulations providing for the storage of kerosene oil at Nakamura were approved by yourself and the other Consuls at Yokohama.

It appears also by your correspondence

with the State Department as communicated to me (No 419 of date March 9, 1880) that at your request, aided to some extent by your Consular colleagues, the Japanese Authorities constructed a number of godowns or storehouses outside of the City of Yokohama for the storage of kerosene oil &c.

I have further to say that not being advised, until the receipt of your No 5106, by you, or by any one else of the adoption by this Govt, with the approval of the Consuls, of the regulations which you therein enclosed, and acting in ignorance thereof upon your No 5018 of the 3d of January last, on the 17th ultimo and the 10th instant I communicated with the Foreign Office on the subject, and upon the receipt of your despatch No 5106 of the 14th instant enclosing said regulations I further communicated with the Foreign Office in regard thereto.

I am now in receipt of the reply of H.E. the Minister for Foreign Affairs

to these communications, of date the 22d instant, in which, after reciting the former correspondence which led to the grant to Messrs Frazar & Co of the privilege of temporary storage on the lots in the new swamp concession, H.E. refers to the reason "for the "establishment of the regulations for "the storage of kerosene oil" and also for the erection at great Expense of godowns for such storage at Nakamura, and states that for some years previous to the adoption of the regulations and the erection of the godowns the Kenrei of Kanagawa had been applied by the Consuls of the several Powers upon the subject, which applications resulted in the adoption of the regulations issued by this Govt with the approval of the several Treaty Consuls.

The Minister insists that by reason of the premises the citizens and subjects of all Foreign Powers resident in Yokohama may be lawfully required to conform to the regulations

and therefore requests that the same may be observed by Messrs Fraser and Co and the China and Japan Trading Co.

I deem it my duty to say to you that these two American firms should be required to conform to the said regulations issued by this Govt. and which have the force of law, and should be notified by you to remove their Kerosene oil, in accordance with the regulations, to the Govt godowns, which I am informed are amply sufficient for the purpose, and should also be required hereafter to observe said regulations by storing their future shipments in the Nakamura godowns.

I am, Sir,

Your obedient servant,

Jno. A. Bingham

No 1259

Enclosure B.

Copy.

No 1409.

United States Legation,
Tokei, February 25, 1881.

His Excellency
Inouye Kaoru,
H.I.J.M. Minister for Foreign Affairs,
Sir:

Referring to Y.E.'s despatch addressed to me and numbered 340, of date the 22d instant, in relation to the storage of kerosene oil &c., I beg leave to say that all you have been pleased to say therein touching the remarks made by me in my communications on the subject which I had the honor to address to Y.E. under date the 17th ultimo and 10th instant, was anticipated and most respectfully explained in my No 1406 of date the 19th instant. It is therefore only necessary to refer Y.E. to my No 1406, and to add

that if I had been previously duly notified of the enactment by your Govt. of the regulations adopted by it March 16, 1877, "for the storage of Kerosene oil and "other substances imported to Yokohama, "the inflammable nature of which or their "storage within the settlement in large "quantities renders them dangerous," my communications numbered, respectively, 1389 and 1399, and dated the 17th ultimo and 10th instant, would not have been written. I have since the two despatches last named were written been favored with a printed copy of said regulations, and beg leave to say that as it appears by your communication of the 22d instant said regulations were issued by His Imperial Japanese Majesty's Govt. and approved by the Consuls of the Treaty Powers in Yokohama, I have deemed it my duty to advise the Consul General of the US at Yokohama to notify the American firms, the China and Japan Trading Co and Messrs Frazar and Co, that they must conform to the requirements of said

regulations and store their Kerosene oil in the Govt. godowns at Hakamura.

I have given this instruction to the U.S. Consul General at Yokohama upon Your Excellency's assurance, as stated in your No 340 to me of date the 22d instant, that in the application of said regulations Y.E. Govt. does not "attempt to bind citizens of the U.S. alone, "but the subjects and citizens of all Powers "alike", and that "discrimination against the "citizens of the United States or against "the articles imported from the United "States" is not to be entertained by or consented to by Y.E. Govt.

I doubt not that this understanding so clearly expressed in your note of the 22d instant will be carried out in the administration of said regulations by Y.E. Govt. without any discrimination against the U.S. or the citizens thereof.

I beg to suggest that Y.E. Govt. should publish the regulations in English, adding an express provision that all persons will

be required to observe the same in the storage of all inflammable and dangerous substances in quantities not exceeding and amount in measure or weight which should be specified in such additional provision to your law.

Accept, Sir, the renewed assurance of my high consideration.

Jno. A. Bingham

No 1259.

Enclosure 1.

神奈川縣

揮發物貯庫規則

明治十年三月十六日改正

REGULATIONS,

OF THE

WAREHOUSES FOR INFLAMMABLE SUBSTANCES.

KANAGAWA KEN.

MARCH, 16th 1877.

PRINTED BY ORDER OF KANAGAWA KENCHO.

STORAGE REGULATIONS.

The Japanese Government has established at Nakamura Warehouses intended for the Storage of KEROSINE OIL and other substances imported to Yokohama, the inflammable nature of which, or their storage within the Settlement in large quantities renders them dangerous.

The Government has entrusted the direction of the Warehouses, to an Official acting under the orders of the Kenrei of Kanagawa and whose duties are clearly defined in a series of instructions issued by the Kenrei and approved by the Treaty Consuls.

The Establishment will be subject to the following Regulations.

ARTICLE I.

The Warehouses will be open daily from 8 A. M. to 4 P. M. during the months from October 1st to March 31st, and from 6 A. M. to 6 P. M. during the months from April 1st to September 30th, except on Sundays and the following holidays.

1st Month	.....	1st, 2nd, 3rd 5th and, 30th day.
2nd „	.....	11th day
4th „	.....	3rd „
9th „	.....	17th „
11th „	.....	3rd and 23rd day.
12th „	.....	29th, 30th and 31st day.

Should it be desired to have the Warehouses opened on any of the above named holidays, twenty four hours notice must be given,

In case the Warehouses should be closed on extraordinary days *i. e.* on other than the above-mentioned days, one week notice will be given in the Yokohama Newspapers.

揮發物貯庫規則

今般日本政府ニテ石炭油其他横濱ニ輸入シタル物品燃燒スヘキ性質ニシテ多量居留地内ニ置クハ危險アルモノヲ貯置爲メ中村ニ於テ貯庫ヲ開設ス

右政府ハ貯庫ノ支配役ヲ官員ニ命ジ神奈川縣令ノ配下ニテ勤務スヘシ右官員ノ職務ハ同縣令ニテ調整シ條約濟各國領事ノ承諾ヲ以テ分明ニ取極タルモノヲ以テスルモノトス

右開業ハ左ノ規則ニ從フヘシ

第一條

一貯庫ハ十月一日ヨリ三月卅一日迄ノ間ハ毎日午前八時ヨリ午後四時迄四月一日ヨリ九月三十日迄ノ間ハ午前六時ヨリ午後六時迄之ヲ開クヘシ併シ日曜日幷左ノ休日ヲ取除ク

一月一日ヨリ三日迄
一月五日　一月三十日
二月十一日　四月三日
九月十七日　十一月三日
十一月廿三日　十二月廿九日
ヨリ三十一日迄

但シ右休日ノ内開庫ヲ欲スルトキハ必一日(廿四時)前ニ告知スヘシ

若又前書日數ノ外出格ノ開庫有之時ハ横濱新聞紙ニテ一周前ニ之ヲ報知スヘシ

ARTICLE II.

Persons desirous of storing Kerosine Oil or other Merchandise of an inflammable nature must make to the Director of the Warehouses an application in the annexed form marked *A*. accompanied by a Certificate shewing that the goods have been entered at the Custom House and that the duty thereon has been paid.

ARTICLE III.

The Director of the Warehouses will examine the documents and inspect the goods in order to verify the exactness of the declaration contained in the storage application and will issue a certificate of deposit according to annexed form *B*.

The Custom House receipts will be returned to the owner.

Should the Director of the Warehouses discover any discrepancy between the weights and dimensions of the goods presented for storage and those specified in the application he will give notice to the owner. If actual discrepancies should be proven the Owner shall be obliged to correct his application and any expense occasioned thereby will be defrayed by him.

Note.—Persons storing goods can have the amount stored receipted for in as many certificates as they please.

ARTICLE IV.

Kerosine Oil will not be received at, and will not be allowed to be withdrawn from the Warehouses in less quantities than 50 Gallons. Other inflammable substances are not subject to this limit.

ARTICLE V.

Gunpowder and other explosive substances will not be received at the Warehouses.

ARTICLE VI.

An open shed is erected on the compound in order to provide facilities for soldering, refilling and general repairs to cases prior to storage.

第二條

一石炭油其外燃燒スベキ性質ノ商品ヲ庫入レセントシ又ハ庫入レセントシ若ハ別紙A號式ノ願書ニ其品ハ稅關ヘ届濟ニシテ稅納濟ナル證書ヲ添ヘ之ヲ貯庫ノ支配役ニ差出スベシ

第三條

一貯庫ノ支配役ハ其書類ヲ吟味シ庫入レ願書中ノ文言ノ確實ナル能ハル爲ニ其品物ヲ檢查シ別紙B號式ノ通リ預リ證書ヲ仕出スベシ

一稅關ノ受取證書ハ持主ニ返却スベシ

一若シ入庫ニ差出シタル品物ノ量目寸法ト願書面ニ認メタルモノト相違アルヲ貯庫支配役コヽ見出ス時ハ之ヲ其持主ニ報知スベシ而シテ確實ノ相違ヲ證明セラルヽニ於テハ持主ハ必ズ其願書ヲ改正シ又右ニ付若干ノ入費アル時ハ持主ヨリ之ヲ拂フベシ

但シ品物ノ預リ證書ハ預人ノ好ニ隨ヒ其高ヲ幾枚ニモ分ケ受ケ取ル事ヲ得ル也

第四條

一石炭油ハ五拾（ガルロン）以下ノ高ハ貯庫ニ受取ルヿナク又引渡スヿモ許サヾルベシ併シ他ノ燃燒スベキ性質ノ物品ハ此限ニアラズ

第五條

一火藥其外破裂物ハ貯庫ニ取ラメ一ッノ屋根ザル掛所ヲ構内ニ設ケ置クベシ

第六條

一入庫スル前ニ箱ノ蓋附詰直シ其他總テ修繕ヲ加フルノ便利ヲ得ル爲メ一ッノ屋根ザル掛所ヲ構内ニ設ケ置クベシ

ARTICLE VII.

Cases and Packages of every description must be distinctly marked and made up in such a manner as not to admit of deterioration.

ARTICLE VIII.

Should the Owner of goods stored at the Warehouses wish to transfer the Ownership without removal from the Warehouses to some other person he can do so by endorsing the transfer on the back of the certificate of deposit which must be brought to the Warehouses for countersignatures after verification by the Director. When the transfer is in favour of several parties a transfer document must be made out according to form *D.* and the original certificate of deposit must be returned.

As many certificates will be issued as there are transferees.

ARTICLE IX.

The storage charges must be paid on withdrawal of all or any portion of the goods which cannot be taken away until this rule has been complied with.

ARTICLE X.

Should the owner wish to withdraw a sample case he must bring his certificate of deposit and the Director of the Warehouses will inscribe on it the quantity withdrawn.

Facilities will also be afforded for sampling at the Warehouses.

ARTICLE XI.

On withdrawal of the goods deposited an order must be given in the form *C.* and the goods must be removed without delay.

ARTICLE XII.

On withdrawal of the whole amount of goods stored the Certificate of deposit must be returned.

ARTICLE XIII.

The forms for application for storage &c. are printed in Japanese and English, and are provided by the Government free of charge.

第七條　各品ノ箱並荷包ハ必ズ分明ニ記載ヲ附ケ且損傷ナク受ケザル樣爲シ置クベシ

第八條　一若シ貯庫ニ預ケ置キタル品物ノ持主ニテ其品ヲ貯庫ヨリ引移スコトナクシテ其儘他人ヘ讓渡サントス欲スル時ハ預リ證書ノ裏ニ讓渡ヲ認メ貯庫ヘ持參シ支配役ノ確定ヲ得且其連署ヲ受ケ之ヲ施行スベシ若シ讓受人數名ナル時ハ號ノ式ノ如ク讓渡證書ヲ認メ元ノ預リ證書ハ返却スベシ

一讓受人ノ數ニ隨ヒ若干預書ヲ認メ出スベシ

第九條　一預ケ品ノ總高或ハ一部分ニテモ引取リヲ爲ス時ハ必ズ其數量ヲ拂フベシ但シ此規則ノ順序ヲ逐ハザルノ間ハ其品ヲ引取ルコヲ許サズ

第十條　一品主ニテ見本ノ箱ヲ引取ラント欲スル時ハ其品ノ預リ證書ヲ持參シ貯庫ノ支配役ハ其證書面ヲ檢シ差出シ引取リタル高ヲ書入ルベシ

一亦貯庫ニ於テ見本ヲ相示スノ便利ヲモ得セシムベシ

第十一條　一預ケ品引取ノ節ハC號式ノ總高ヲ不問ヲ用ヒ收府ニ於テ刊行シ無代ニテ下ケ渡スベシ

第十二條　一庫入願書其他式紙ハ和英兩語ヲ用ヒ收府ニ於テ刊行シ無代ニテ下ケ渡スベシ

第十三條

ARTICLE XIV.

The term of storage shall not exceed one year. When the year has expired, and should the owner wish to continue the storage, the charges must be paid up and a new application made according to General Regulations.

Should the goods not be withdrawn on expiration of the year and the storage charges remain unpaid, the Government will insert a notice in the papers for the space of one month.

On expiration of that period and the goods not having been withdrawn, the Government may proceed to sell them at Public Auction. From the proceeds, the amount due for storage and for expenses of sale and advertising will be deducted and the balance will be retained by the Government.

Should the owner eventually come to claim the property and produce the Certificate of deposit the balance will be handed to him less a charge of one per cent.

ARTICLE XV.

The storage charges are as follows—

For Kerosine Oil, Ordinary Cases of ten Gallons per month per Case.....1 sen.

For other inflammable substances, per English cubic foot per month.....0½ sen.

Note.—The smallest charge will be for half a month, and any number of days under fifteen will be charged as half a month.

Should a longer experience shew it to be desirable, these charges may be modified by the Local Authorities in conjunction with the Consuls of the Treaty Powers.

ARTICLE XVI.

The care of the goods stored at the warehouses is confided to the Japanese Government who are not responsible for losses occasioned by leakage, fire, or convulsions of the elements.

ARTICLE XVII.

Goods belonging to Japanese will be subjected to these same rules but will be stored in a separate building.

第十四條

一入庫ノ期限ハ壹年ニ過グベカラズ其壹年ヲ過テ若シ持主ニテ猶其儘ニ預ケ置ント欲スル時ハ先ヅ藏敷金ヲ拂ヒ終リ然ル後ニ一般ノ規則ニ從ヒ新タニ願書ヲ差出スベシ

一若シ壹ケ年ノ期ヲ過ギテ品物ヲ引取ルコトナク亦藏敷金モ拂ハズシテ其儘ニ差置ク時ハ政府ニテ其事ヲ壹ケ月ノ間新聞紙ヲ以テ廣告スベシ

一其時間ヲ過ギテ其品物ハ猶引取ルコトナキ時ハ政府ニテ其品物ヲ公ケノ競賣ヲ以テ賣拂フコトヲ爲シ右賣代金ヨリ藏敷ノ高幷ニ賣拂ノ諸入費其他公告料ヲ引去リ殘金ハ政府ニ留置クベシ

一其後前書品物ノ持主來リテ其所有物ヲ請求シ且預リ證書ヲ差出ス時ハ右殘金ノ內百分ノ一ヲ差引テ之ヲ其者ニ渡スベシ

第十五條

一藏敷金ハ左ノ通

石炭油　通常ノ箱ニテ十八ガルロン入　一ケ月一箱ニ付壹錢

他ノ燃燒物一ケ月英尺一（フート）立法ニ付五厘

但シ十五日以下ノ藏敷金ハ日數ノ多少ヲ論ゼス總テ半月ト算スベシ

一右藏敷金ハ向後經驗ニ仍リ要求スル處ヲ斟酌スル時ハ地方官ニテ條約濟各國領事ト協議ノ上之ヲ變革スルコヲ得ベシ

第十六條

一貯庫ニ貯ヘタル品物ノ注意ハ日本政府ノ擔當ナリト雖モ漏濕火難或ハ其品ノ激發ニ由リ生ジタル損失ニハ關係ヲ受ケザル事

第十七條

一日本人ノ品物ハ別庫ニ入レ貯ユベキ

[*From A.*]

APPLICATION FOR STORAGE.

YOKOHAMA, _____ 188 .

Please receive on Storage in the Warehouses _____ _____ imported from _____ in the _____

These goods were duly passed at the Custom House on the _____ 188 .

You are requested to deliver them only upon an order from the undersigned.

_____ 188 .

_____

To the Director of the Warehouses.

MARKS.	NOS.	NO. OF CASES.	GOODS, DESCRIPTION AND QUANTITY.

[*Form B*]

APPLICATION FOR STORAGE.

YOKOHAMA, _____ 188 .

I hereby acknowledge having received from Mr. _____ the following goods _____ ex _____

The duties on them were paid at the Yokohama Custom House on the _____ 188 by _____

According to the Warehouse Regulations these goods will be delivered on payment of the Storage charges.

_____ 188 .

MARKS.	NOS.	NO. OF PACKAGES.	DESCRIPTION OF GOODS.

A號

庫入願書

第　號

地ヨリ國名國名船ヲ以テ輸入仕候左件ノ荷物ヲ貯庫ニ御預リ被下度右ハ千八百七十　年　月　日稅關ニ〜ハ屆濟ニ有之候尤私共記名ノ願ニ限リ御渡可被下候也

明治　　願主　何ノ誰印

一千八百七十

貯庫掛士官貴下

番號	記號數	箇品物及其入目

B號

預證書

第　號

何國何船ヲ以テ輸入シ一千八百七十　年　月　日横濱稅關〜誰ヨリ納稅濟左ノ荷物ヲ國名商ヨリ受取候尤貯庫規則ニ基キ凡入費請取候上ニテ引渡可申候也

明治

一千八百七十

貯庫掛士官印

番號	記號數	箇品物及其入目

[*Form C*]

ORDER FOR GOODS.

YOKOHAMA,_____188 .

Please deliver to bearer_____
stored by_____on the_____188 , imported from_____ex _____

Certificate of Deposit produced.

_____

To the Director of the Warehouses.

MARKS.	NOS	NO. OF PACKAGES	DESCRIPTION OF GOODS.

[*Form D.*]

FORM OF TRANSFER.

YOKOHAMA,_____188 .

According to_____application of the_____
you received on storage from_____as shewn by the annexed Certificate of Deposit.

Please now transfer_____to Mr._____
and_____to Mr._____and_____
to Mr._____

To the Director of the Warehouses.

C號

引取手形

第　號

地名ヨリ名國船ヲ以テ名國船ヲ

年　月　日ニ御預ケ申候左ノ荷物ヲ此者ヘ御引渡被下度別紙御預リ證書相副此段奉願候也

明治　年　月　日

持主　何ノ誰印

一千八百七十

貯庫掛士官貴下

番號	記號	箇數	物品及其入目

D號

讓渡書式

某　年　月　日ノ願書ニ依リ貴下ニテ別紙預リ證書ノ通リ　ヲ拙者　ヨリ御預リ置被下候然者今般何卒　ヲ某氏ヘ　ヲ某氏ヘ　ヲ某氏ヘ御引渡可被下候也

年月日　何ノ誰

貯庫掛士官貴下

No 1260.

United States Legation,

Japan,

Tokei, February 28, 1881.

Hon William M. Evarts,

Secretary of State,

Washington D.C.

Sir:

I have the honor to acknowledge the receipt of your Instructions Nos 554, 555, 556, 557, 558, 559, 560 and 561, and also of two boxes of stationery for the use of this Legation.

Your Instructions numbered, respectively, 554 and 555 only reached me on yesterday, the 27th instant, from Shanghai by the favor of Mr Consul General Denny, who advises me under date the 9th instant, that these two Instructions "were found among the

document

"documents in the through pouch
"this meil."

I have the honor to be,
Sir,
Your obedient servant,
Jno A Bigham

File

No 1260.

United States Legation.

Japan.

Tokei, February 26, 1881.

Mr Bingham

to the

Hon Secretary of State.

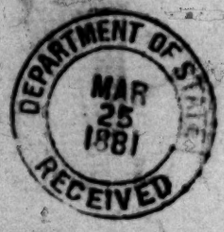
Subject.

Acknowledging receipt of Instructions

554 - 561, inclusive, and of stationery.

For Mr O'Connor's information.
C. R.
File O'Connor
Mar 31 1881 made

No 1261.



United States Legation,
Japan,
Tokei, February 28, 1881.

Mr Bingham
to the
Hon Secretary of State.

Subject.

The delivery to and the acceptance by Ross of the pardon granted to him by the President with its condition. Mr Bingham refers to his correspondence with the Dept. in the case, and calls particular attention to the report that Ross will upon arrival at San Francisco petition for discharge under habeas corpus, which Mr Bingham thinks cannot lawfully be done.

No 1261.

United States Legation,
Japan,
Tokei, February 28, 1881.

Hon. William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

Referring to my No 1252 of date the 9th instant and also to my telegram of date the 14th instant, I beg leave to say that I therein acquainted you that John M. Ross had accepted the conditional pardon so graciously granted to him by the President and expressly acknowledged in writing the delivery thereof to him, and that he accepted the pardon with the condition expressed in the President warrant,

Cont.

to wit: that he should be imprisoned at hard labor during the term of his natural life in the Albany Penitentiary in the State of New York.

My telegram of the 14th instant was addressed "State Department, Washington "City" and was as follows:— "Ross — "accepts pardon - sails March first".

The original warrant of pardon has been endorsed in writing by John H. Ross in substance as follows: —

"Delivered to me and accepted with "the condition therein Expressed, to wit: "that I, the said John H. Ross, shall "be imprisoned at hard labor during "my natural life in the Albany "Penitentiary in the State of New "York"; which endorsement is duly attested and certified by Mr Consul General Van Buren. A judicial warrant has been issued by Mr

Van Buren

Van Buren to Horin Latham, a citizen of the United States, as stated in my No 1252 and enclosure 3 therewith; and also an authenticated copy of the Presidents warrant of conditional pardon has been delivered to said Latham duly endorsed with the written acknowledgment of John M. Ross of the delivery to him of the original warrant of pardon granted to him by the President on the condition therein specified, and of his acceptance of said pardon and of the condition annexed thereto. The prisoner goes to America in charge of Mr Latham on the American mail steamship "City of Peking" on the 2d instant, in which steamer I forward my official mail pouch containing this despatch.

I

I am advised by Mr Stevens, Secretary of this Legation, that the Attorney General Devens has written a letter to Mr Hill, of counsel for Ross, that he is satisfied of the Constitutionality of the acts to carry into effect the treaties of the United States with Japan, under which Ross was tried by the Consul General and his four associates and convicted, and that he also accords with your ruling as to our exclusive jurisdiction over Ross, and that the Government is anxious to have the questions involved in this case tested in the Courts of the United States. Having received no answer to my telegram of the 14th instant. I have concluded that Ross should go to the United States without awaiting any further instructions from you. I have therefore

therefore directed the Consul General to send the prisoner to the United States at once in accordance with the President's order and your Instruction No 526.

Permit me, for your own convenience to refer you to my several despatches in this case of the United States of America against John M. Ross, an American seaman lawfully engaged in the merchant service of the United States on board the American vessel "Bullion":—

1st My despatch No 1124, dated 22d May last, enclosing record in the case and Consul General Van Buren's despatch of date the 10th of May last, together with my instructions to him, which you were pleased to approve, and also

my

my further correspondence with him, and also enclosing my approval of said conviction.

2d My No 1127, in relation to the note of Mr Kennedy, the British Charge d' Affaires, wherein he presented the protest of the British Consul to the jurisdiction of our Consular Court over Ross because of his British nativity and my reply thereto, which was enclosed, and which, I am pleased to say, received your approval.

3d My No 1134, June 16, 1880, in relation to the application of Mr Hill, of counsel for the accused, for an appeal to me from the judgment of the Consul General, with a copy of my reply to the Consul General, that I had no appellate jurisdiction in the case, and that having approved the conviction of Ross under section 4102

Revised

Revised Statutes of the United States on the 22d of May 1880 I, could not open and review the conviction of the accused and my own approval thereof, which you were also pleased to approve.

4th My 1143, July 9, 1880, acquainting you that after my approval of the conviction of Ross, to wit: on the 21st of June last, the Consul General pronounced sentence of death upon Ross, and that on the 23d of June I postponed the execution of said sentence under section 4103 Revised Statutes.

5th My 1146, showing the action in Kobe in the case of a British seaman of Belgian nativity, and calling attention to the British Order in Council of 1865, which I enclosed with my No 229, May

May 21, 1875, which limits the jurisdiction of the British Courts in China and Japan in cases of crimes committed in those waters or shipboard to such crimes as are committed by British subjects on board British vessels or Chinese or Japanese vessels, or on board of vessels "not lawfully entitled to "claim the protection of the flag "of any State".

6th My 1155, - my denial, with your approval, of Mrs Mills's application for appeal from the final judgment of the Consular Court to the Circuit Court of the United States for the District of California.

7th My Nos. 1175 and 1176, containing my instructions to Consul General Van Buren concerning the conditional pardons of Ross.

8th My No 1194, stating my receipt

more

more fully in support of the
constitutionality of the Acts of Congress
to carry into effect the treaties of
the United States with Japan and
providing for the trial of all Americans,
including all American seamen
of whatever nativity, before our
Consuls in Japan for all crimes
committed by them in that country,
and citing, in support thereof the
case Canter against the American
Insurance Company, 7th Curtis'
Supreme Court decisions page 687,
and also Dynes against Hoover,
20th Howard's Supreme Court
Reports pages 78-79, to which I
beg to add the case United
States against Favreira, 19th
Howard, pages 373-380, arising
under the Act to carry into
effect the Treaty of 1819 with
Spain

Spain, wherein the Supreme Court ruled that it rested with Congress to provide the tribunal according to the stipulation of that treaty and that the power conferred by the act was not a judicial power to be exercised by a Court of the United States within the third article of the Constitution of the United States, but was a power non-judicial conferred on a special tribunal, from whose decision no appeal was provided for to the Courts of the United States.

9th My No 1221, reporting the refusal of Judge Sawyer, United States Circuit Judge California, to entertain the appeal in the case.

10th My No 1228, in answer to the note of Mr Victor Drummond, enclosed with your Instruction No 546.

J

I may be pardoned for stating that in these several communications I have endeavored to show that Congress had the power to enact the statutes in question under the grant of Article 1, Section 8, Clause 18 of the Constitution, towit: "to make all laws necessary and "proper for carrying into Execution x x x "all powers vested by the Constitution "in the Government of the United "States or in any Department or Officer "thereof", including, of course, among others, the treaty power.

It has been reported to me by Mr Stevens that it is proposed by Mr Hill, of counsel for Ross, to obtain upon the arrival of the latter in California from the United States Court of that District the discharge of Ross upon a writ

writ of habeas corpus. The case ex-parte Wells heretofore cited in my despatches (18th Howard) settles the question which may be raised now, that the Presidents conditional pardon delivered and accepted with its condition by Ross, is valid and furnishes no ground for his discharge upon habeas corpus. Inasmuch as there is no appellate jurisdiction in the Courts of the United States to review the judgment of the Consular Court in this case, I think myself justified by the rulings of the Supreme Court in ex-parte Ballman (2d Curtis' Supreme Court Decisions page 23) and in Matter versus Melzger (16th Curtis pp 348-353) and the cases therein cited, in saying that neither the Judges nor Courts

of

of the United States can under the writ of habeas corpus lawfully reverse said judgment and discharge said Ross from the custody of the person charged, in accordance with the President's order, with the safe delivery of said Ross to the Warden of the Albany Penitentiary in the State of New York.

I am told that Mr Attorney General Devens has instructed the United States District Attorney in regard to this matter.

I have the honor to be,

Sir,

Your obedient servant,

Wm A. Richardson

File

No. 1262.

Ack

made

United States Legation,

Japan.

Tokei, March 15, 1881.

DEPARTMENT OF STATE
APR 14 1881
RECEIVED

Mr Bingham

to the

Hon Secretary of State.

Subject.

Acknowledging the receipt of Instructions 563 and 564 and of protocols of the first two sessions of the Sanitary Conference, Commercial Relations &c.

Enclosure

Mr Bingham to Mr Inouye, March 5.

No. 1262.

United States Legation,
Japan,
Tokei, March 15, 1881.

Hon. William M. Evarts,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to acknowledge the receipt of Instructions numbered 563 and 564, respectively, and also duplicate copies of the protocols of the proceedings of the International Sanitary Conference which convened in Washington January 5, 1881, upon the invitation of the President, and also a copy of the Commercial Relations of the United States for 1879.

I have transmitted a copy of the

the protocols to His Excellency Mr Inouye, the Minister for Foreign Affairs, and, in accordance with your Instruction, I have in my communication to the Minister conveyed to His Imperial Japanese Majesty's Government the assurance that the action taken by His Majesty's Government in the premises is highly appreciated by the President and Government of the United States. Herewith I enclose a copy of my note to Mr Inouye.

I have the honor to be,

Sir,

Your obedient servant,

J. C. A. Bancroft

No 1262

Enclosure

Copy No 1416

U. S. Legation

Tokei Japan March 15th 1881.

His Excellency Inouye Kaoru.

Sir:

Referring to Your Excellency's communication of date the 21st of December last in relation to the International Sanitary Conference which was convened in Washington city upon the invitation of the Government of the United States, I beg leave to enclose for your information copies of the Protocols of the Organization of the Convention on the 5th of January last, and of its proceedings up to the 29th of January. The Convention continued thereafter in session, but its further action has not yet reached me.

I

/

In this connection it gives me pleasure to acquaint Your Excellency that I am instructed by the Honorable Secretary of State to convey to His Imperial Japanese Majesty's Government that the action taken by His Majesty's Government in the premises is greatly appreciated by the President and Government of the United States.

Accept Sir: the renewed assurance of my high consideration.

(Signed) John A. Bingham

Ask

File

No 1263

Under

United States Legation,

Japan,

Tokei, March 15, 1881.

Mr Bingham

to the

Hon Secretary of State.

Subject.

The action taken by the United States in summoning an International Sanitary Conference and in recognizing the right of Japan to control her own commercial interests must commend itself to the Japanese Government and people.

No. 1263.

United States Legation,
Japan,
Tokei, March 15, 1881.

Hon. William M. Evarts,
Secretary of State,
Washington, D.C.

Sir:

Referring to Instruction No 563 in relation to the International Sanitary Conference at Washington, which was convened upon the invitation of the President and also referring to the protocols of the Conference which you were pleased to transmit to me, I beg leave to say that the action taken by our Congress and by the President and yourself in this behalf cannot fail, in my opinion, to greatly conform this Government

and

and people and the Governments and people of other nations in the belief that the policy of the United States of America is worthy of this great and enlightened age and embraces a due regard for the interests of all nations as well as for our own. I have no doubt that the action of the President and your own action as well in this great and humane movement for the health of all nations, together with the action heretofore taken by the President and yourself by supporting the quarantine of this Government and also in acceding to the petition of Japan for a restoration by treaty of her just rights over her commerce and her industrial interests, have been and will continue to be gratefully accepted by His Majesty the Emperor of Japan and

and the five and thirty millions of his people as assurance of the good faith of our Government towards them and of its purpose to practice what it professes, equal and exact justice to all nations.

I have the honor to be,

Sir,

Your obedient servant,

Wm. A. Bingham

Rcbd. + approved Apr. 15 1881 M. Crider

Ack + approve — C.P

Leader

No. 1264.

United States Legation,

Japan,

Tokei, March 13, 1881.

Mr Bingham

to the

Hon Secretary of State.

Subject.

The assassination of the Emperor of Russia. Visit of condolence to the Russian Legation.

Enclosure.

Mr Bingham to Mr Brunet, March 14.

No 1264.

United States Legation,
Japan,
Tokei, March 15, 1881.

Hon William M. Evarts,
Secretary of State,
Washington, D.C.

Sir:

On yesterday afternoon I was shocked by a verbal communication sent to me by His Excellency Mr. Struve, the Russian Minister at this Court, in which he acquainted me that His Majesty the Emperor of Russia had on the 13th instant been assassinated. I immediately addressed a note to Mr Struve expressive of my sympathy and that of my family with Madame Struve and himself in the great calamity which had

Conc

come upon them and upon their Government and people, a copy of which note I have the honor to enclose. In accordance with the Minister's request I immediately placed at half mast our national ensign, in token, as stated to the Minister, of the respect entertained by our Government and people for the memory of his great Sovereign.

Not unmindful of the constant friendship manifested, and which His Majesty very significantly manifested toward the United States in the supreme moment of our struggle for national life against a gigantic and unmatched rebellion, and not unmindful, I may add, that His Imperial Majesty had emancipated twenty millions of his people, I deemed that it would be

fitting

fitting and would but reflect the wishes of our Government and people, that I should conform, as I did to Mr Stowe's request. I am pleased to say that all the other Legations in this capital displayed the flags of their respective nationalities at half mast.

Accompanied by Mr Stevens, our Secretary of this Legation, I called on Mr and Mrs Stowe yesterday and expressed to them in person my sincere sympathy and that of my family with them in their strange, great sorrow.

Trusting that my action in the premises may command your approval,

I have the honor to be, Sir,

Your obedient servant,

Wm A. Leighton

No 1264.

Enclosure.

Copy.

No 1042.

United States Legation,
Tokei. March 14, 1881.

My dear Colleague:

Upon the receipt of your verbal message through Baron Rosen of the cruel, unjust and brutal assassination of H.M. the Emperor of Russia, I immediately placed at half mast the ensign of my country in token not only of my own respect but of the respect as well of the Govt. and people of the U.S. of America for the memory of your great sovereign.

I am

H.E. C. de Struve,
H.I.R. Ms. Envoy Extraordinary
and Minister Plenipotentiary in Japan,

&c &c &c

In this terrible calamity, I beg leave to say, that you, my dear Colleague, and Madame Stowe have the sincere sympathy of my family and myself. I know from sad experience what it is to lose the ruler of one's country by assassination.

Be pleased to accept, my dear Colleague, the renewed assurance of my high consideration.

Jno. A. Bingham

No. 1265.

Jackson approved Apr 18. 1881. Th. Cuyler.

Approved C.P.

W. A. Adee

United States Legation,

Japan.

Tokei, March 16, 1881.

Mr Bingham

to the

How Secretary of State.

Subject.

At the request of the French Minister Mr Bingham instructs Vice Consul Harris at Kobe to use his good offices for French interests &c.

No 1265.

United States Legation,
Japan,
Tokei, March 16, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

On the 23d ultimo I received a note from His Excellency M. de Roquette, the French Minister in Japan, requesting that Vice Consul Harris at Osaka and Hiogo be authorized to temporarily "take charge of the "interests of French subjects in Kobe." To this note I made reply on the 25th ultimo that in accordance with the Minister's request I had instructed Mr Harris to give his good offices for the protection of the interests of French

File

No 1266.

Referred to Judge O'Connor C. P.
File by order of the
Attorney
General 15

DEPARTMENT OF STATE
APR
14
1881
RECEIVED

United States Legation,

Japan,

Tokei, March 16. 1881.

PRINTED.
FOREIGN RELATIONS.
1881

Mr Bingham

to the

Hon. Secretary of State.

Subject.

Enclosing a translation of the new Japanese Code of Procedure.

Enclosure.

Code of Procedure - translation.

"French subjects", and in case of complaint against any "French subject" to submit the same to the French Consul at Yokohama, who will take cognizance thereof.

As I hitherto gave my good offices to Peru in the absence of the Minister of that Government, which action the Department was pleased to approve, I trust that my action in thus instructing Mr Harris may also meet your approval.

I have the honor to be,

Sir,

Your obedient servant,

Wm A Pinghame

File

No 1266

Referred to Judge O'Connor C. P.
File by order of the
U. S. Commr
April 15

DEPARTMENT OF STATE
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Tokei, March 16. 1881.

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Mr Bingham

to the

How Secretary of State.

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FOREIGN RELATIONS.
1881

Subject.

Enclosing a translation of the new Japanese Code of Procedure.

Enclosure.

Code of Procedure - translation.

No 1266.

United States Legation,

Japan,

Tokei, March 16, 1881.

Hon William M. Evarts,

Secretary of State,

Washington D.C.

Sir:

Referring to my No 1209, in which I enclosed for your information a translation of the new penal code of this Empire, I now beg leave to enclose herewith a translation made by Mr Thompson, Interpreter to this Legation of the Code of Procedure recently adopted by His Imperial Japanese Majesty's Government.

Although proclamation at what time this Code of procedure shall

shall take effect has not yet appeared. I have no doubt it will very shortly appear, and therefore I deem it well to possess the Department of the translation copy without further delay.

I reserve any remarks upon the several provisions of the new code of procedure for a future despatch, as I have not had time since its very recent receipt to fully acquaint myself with its provisions.

I have the honor to be,

Sir,

Your obedient servant,

Wm A. Bingham

Folio 9 in the Consular Book

Translation

By D. Thompson, Interpreter to the United States Legation Tokio, Japan.

No. 37.

Proclamation is hereby made that the following Code of Procedure has been drawn up. The time when it will go into effect will be published by Government proclamation hereafter.

Yamu-shito. (Arisugawa)
Junior Prime Minister.

July, 17. 1880.

Code of Procedure.

II.

Code of Procedure

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Code of Procedure.

Book II. General Principles.

An Official Complaint, or "Koso," has for its aim to prove a crime and inflict punishment, & is made by the "Hen-satsu-kwan," or prosecuting Officials, or "Kenji," according to the distinctions established by law.

A Private Complaint, or "Shi-so," has for its aim compensation for damages or the restitution of stolen articles, and is made by the person injured, according to the civil law.

An Official Complaint may be instituted without waiting for the complaint of the person injured, and does not become null by the surrender of the right of private complaint except as expressly provided by law.

A Private Complaint may be brought before a criminal court along with an Official Complaint, regardless of the amount of money involved, except when said Court is not allowed by law to entertain Private Complaints. Also, a Private Complaint may be made separately before a Civil Court.

The trial of Official & Private Complaints

shall be conducted according to the mode of procedure fixed by the law actually in force in the Court having jurisdiction.

6 When an Official and Private Complaint arise together in a Criminal Court, or in a Criminal and a Civil Court the Private Complaint must not be tried before the Official Complaint. If a Sentence to inflict punishment is rendered after a Sentence to make restitution or compensation both together shall be null and void.

7 If a Private Complaint has been made in a Civil Court, it cannot be withdrawn and instituted anew in a criminal Court, unless the "Hengi," or investigating official, has instituted a complaint; but when a Private Complaint has been made in a criminal court it may, with the consent of the dependant be withdrawn and instituted anew in a civil court.

8. Though the dependant is released from the charge, or declared by sentence to be innocent, he shall make no objection to the claim of the party injured for damages according to the civil law.

9. The right to make an official Complaint

ceases to exist in the following cases:

1. When the dependant dies.
2. When, pending complaint being made, the injured party relinquishes his right in the case to be entertained, or when private reconciliation takes place.
3. When sentence becomes irrevocable.
4. When the punishment of a given crime is abolished by law published after its commission.
5. When a general release is granted.
6. When the right to complain expires according to the Statute of Limitations.

The right to make a Private Complaint ceases to exist in the following cases:

1. When the person injured surrenders his right, or makes private reconciliation.
2. When sentence becomes irrevocable.
3. When the right to complain expires according to the Statute of Limitations.

The periods of the Statute of Limitations in Official Complaints are as follows:

1. For Infractions of Police Regulations; Six months.
2. For Light-Crimes; three years.
3. For Grave-Crimes; ten years.

In the case of Private Complaints the

periods are the same as above, Art. 11, both when the person injured is powerless, and when he has made his complaint in a civil court.

When a sentence to undergo punishment has already been rendered, or Official Complaint, it shall follow the example of the Statute of Limitations fixed by the civil law.

13 The period of the Statute of Limitations in both Official & Private Complaints shall be counted from the day when the offense was committed. In the case of a continuous offense it shall be reckoned from the last day.

14. The flight of time, in the case of the Statute of Limitations, is arrested by the "Kenji" or in civil cases, by the plaintiff instituting process in law, and also by the process of preliminary examination or public trial. The same is true in the case of undiscovered principals & accessories, & of securities in civil cases.

When the flight of time is so arrested it shall be reckoned anew from the day when the process of making complaint, preliminary examination, or public trial comes to an end. But, counting in the days before & after the interruption, it shall not exceed twice the time fixed in Art. 11.

15. When the process of instituting complaint, preliminary examination, or public trial is void on account of irregularity, the arrest or interruption of the flight of time of the Statute of Limitations shall also be void; but not when the process is void on account of a Courts want of jurisdiction.

16. In case the defendant is released from the charge, or is declared innocent, he may claim compensation for damages when the grounds of the complaint against him lie in the ill will or grievous mistake of the complainant, informer or plaintiff.

The defendant may do the same (i.e. claim damages) even when sentenced to be punished, when from ill will or serious error the complainant, informer, or plaintiff-in-civil-cases, has made a statement exceeding the truth respecting his crime.

When the appeal of a plaintiff-in-civil-cases against the sentence of a preliminary examination or public trial is rejected the defendant may claim compensation for damages caused by the appeal.

A claim for compensation may be made in the court at any time until the sentence of the court is rendered.

17. The defendant, even though declared

innocent cannot bring a claim for compensation against a court official, investigating official, clerk, or police officer in the Department of justice, except when said officials have intentionally caused injury to the defendant, or committed an offense defined in the criminal law.

18. In reckoning time according to this law, hours shall begin at once; in calculating by days the first day shall not be counted in; if the last day is a rest day it shall not be included. The period of the Statute of Limitations is excepted. One day shall consist of twenty four hours; One month shall consist of thirty days; and a year shall be determined by the almanac.

19. In reckoning the periods of time fixed in this Code, one days delay shall be allowed per every eight "li" (twenty miles) of travel by land. A distance under eight li, and under three li, shall also count as one day. The delay for travel from islands or from foreign countries shall be determined by special regulation.

20. When the time fixed for making complaints in this law is past, the right to do so is lost except in special cases mentioned herein.

1. When a person interested in a complaint does not reside in the place where the court sits. his residence shall be fixed there temporarily and notice sent to the clerk's office; when this is not the case he cannot raise objections even though documents are not forwarded to him.

2. When, according to this law there is no special rule for forwarding documents to persons interested in a complaint, the clerk shall make out a communication to be sent, and send it by a messenger belonging to the clerk's office. When the person who should receive the communication lives outside the territorial jurisdiction of the court the clerk of the court where he resides shall be employed to make the communication.

3. Two copies of the communication shall be made out, and one copy sent to the person interested. If it cannot be delivered to him it shall be delivered to a relation or employed person in his residence. The sender shall cause the receiver to sign and seal both copies. If he cannot sign and seal them a note shall be made of the fact. The documents may be delivered to relatives or servants of the party concerned. If these will not receive them they shall be left with the "Kocho," or Recorder,

of the place, and the Kocho shall stamp the documents and take steps to forward them speedily to the party for whom they are intended. §.

The forwarder shall note down upon the two copies the name and residence of the receiver and also the time of delivery. When these regulations are not observed the forwarding of documents shall be null and void.

The forwarder shall return one copy to the clerk's office to be there kept as evidence of the fact that it was forwarded as the law directs. §.

24. Documents shall not be forwarded on rest days nor before the sun arises nor after it sets. If this rule is violated the forwarding is void unless the person addressed consents to receive the documents.

25 Official documents shall be stamped on each separate leaf with the stamp of the office, and the year, month, day, and place shall be noted in writing. In case the seal cannot be used the reason should be assigned. When this rule is violated the document shall be void & powerless. §.

A document drawn up by a person who is not an official shall be signed and sealed by the writer. If he cannot sign or seal it he shall get a by stander to sign it, and state the reason in writing.

Documents drawn up in the presence of an official are exempted from this rule.

No official or other person shall alter a word in drawing up an original or making a copy of a document relating to a complaint. If insertions, erasures or marginal notes are made they shall be stamped. When words are erased their form should be left legible and their number noted. When this rule is violated the alteration, diminution or addition shall be void.

The rules respecting preliminary examinations and public trials laid down in this law are applicable to crimes committed before their publication. Complaints made before the publication of this law in accordance with the existing law shall be held to be valid.

This law shall be applicable to crimes which shall have the method of their preliminary examination & public trial prescribed by special law to be hereafter published, such rules as are contrary to said law being excepted; but the above shall not be the case in respect to crimes which have had the method of their preliminary examination and public trial prescribed by special law published hitherto.

10.

29. This law cannot be applied to a case which should be dealt with according to Army or Navy law.

30. In this law the persons described in Arts. 104–115 of the "Penal Code" shall be regarded as relatives.

Book II.

The Constitution and Authority of Criminal Courts.

Chap. I. General Rules.

31. Usually one and the same court shall have the right of deciding both criminal and civil cases.

32. The rank of the court and the limits of its jurisdiction shall be determined by the Emperor at the request of the Minister of Justice.

33. A court shall have attached to it one "Ken-satsu-kwan" or investigating official or more if needed.

34. The duties of the "Ken-satsu-kwan" in criminal cases are the following:

1. To search out offenses.
2. To consult a court official on the mode of investigating the offense & on the applicability of the law.
3. To direct the execution of the orders & sentences

of the court.

4. To secure the interests of the state in court.

25. One "Ken-satsu-kwan" shall be by-stander or constant-witness in the court room.

26. One clerk or more shall be attached to a court.

27. The clerk shall be an observer in preliminary examinations and public trials, and shall make out examination papers, account of the trial, and other documents relating to the complaint. He shall also preserve the written sentence of the court and all other documents.

28. The jurisdiction of courts is determined as follows according to the kind of offense or crime:

1. The "I-kei-zai" court, or court for the trial of Infractions of Police Regulations shall have jurisdiction in case of all such infractions".

2. The "Tsui-zai"-Court, or court for the trial of Light Crimes shall have jurisdiction in case of such crimes.

3. The "Shi-zai"-Court, or court for the trial of Grave Crimes shall have jurisdiction over such crimes.

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When a Grave and Light Crime, or a Light Crime and an Infraction of Police Regulations are charged at once against one and the same defendant, though not constituting one offense, or a conjoint crime, a superior court has jurisdiction over both offenses together.

39. The following shall be regarded as conjoint or united offenses:

1. When an inan, or several, commit several crimes in the same place at the same time.

2. When several persons, by agreement, commit several crimes in different places at different times.

3. When one commits an additional crime in order to facilitate the commission of a crime or in order to escape its punishment.

40. Of courts of the same rank the court of the place where the offense is committed shall have jurisdiction in the preliminary examination and public trial.

When the place of the commission of the crime is not clearly ascertained the court of the place where the accused is arrested shall have jurisdiction.

41. When a single crime is committed simultaneously or continuously in the territorial jurisdiction of several courts, the court of the place where the defendant is arrested shall have jurisdiction.

The case is the same when several crimes are disclosed together.

42. When an offender is arrested in the territorial jurisdiction of a court different from that in which the offense was committed he shall be sent to the nearest court having jurisdiction.

When an offender is arrested on a writ he shall be sent to the court which issued the writ.

43. In the case of several courts having jurisdiction, when the defendant cannot be arrested, or when by law an arrest is not allowable, then the court which first undertakes preliminary examination or public trial shall have jurisdiction.

44. The court which has jurisdiction over a principal shall also have jurisdiction over an accessary. When several principals are under the jurisdiction of different courts, the court that first undertakes preliminary examination or public trial shall have jurisdiction in the case.

This Art. (44.) shall not have force in the

case of the Ho-to-ho-in, or Nobles court, or of the Army and Navy Courts, the jurisdiction of which is specially defined by law.

45. When a defendant is arrested in Japan for an offense committed in a foreign country, but punishable by the law of Japan the court of the place where the arrest is made shall have jurisdiction. When he is sent back from a foreign country the court of the place to which he is sent shall have jurisdiction. When it is necessary to try an absent person the court in the place where the defendant last resided shall have jurisdiction. When this place is not clearly known an appeal shall be made to have the jurisdiction determined.

46. The jurisdiction over a crime committed on board a merchant vessel, and also the mode of procedure in making complaint is decided by special law.

47. The court-official who conducts the preliminary examination shall have no connection with the public trial; and, excepting the right to petition and to object to the trial of an absentee, the court officers who conduct the preliminary & public trials shall have nothing to

do in deciding cases on appeal. If this rule is violated the sentence shall be null & void.

48. A court has the right to determine itself whether it has jurisdiction or not in the case of a complaint which it has entertained. Against its decision however, even in the case of a final trial, the "Ken-satsu-kwan" or other persons interested in the complaint may appeal according to the usual regulations

Chapter II. Police Courts.

49. A "Shi-ai-sai-ban-sho", or court for the preservation of the peace, shall as a Police Court try offenses against police regulations committed within its jurisdiction.

50. A judge of the "Shi-ai-sai-ban sho" (Art 49) shall perform the duties of a judge of the Police Court. When the judge is prevented from performing these duties an assistant judge may perform them.

51. The police officer of the place where the court is located shall perform the duties of a "Kensatsukwan". (See Art. 1. et passim.)

52. The Ken-satsu-kwan of a police court shall make out a list of the decided and undecided cases monthly and forward it to the "Kenji"

of the "Kei-zai-sai-ban-sho, or court for the trial of Light-Crimes. The judge of the Police court shall stamp this list, and append his opinion when he has any to give.

53. The clerk of the "Shi-an-sai-ban-sho (sec. 49) shall perform the duties of the clerk of the Police Court.

Chap. III "Kei-zai-sai-ban-sho" or Court for the Trial of Light Crimes.

54. The "Shi-shin sai-ban-sho", or court of primary investigation, as a "Kei-zai-sai ban sho (sec 52) shall try Light Crimes committed within its jurisdiction. It shall also make the preliminary examination of Grave & Light-Crimes.

It shall also try appeals against the primary examinations of Police Courts in its jurisdiction.

55. The Chief officer of the Court shall order one judge of the "Shi-Shin-sai-ban-sho" (sec. 54), or several judges in turn, to perform the duties of a judge in the "Kei-zai-sai-ban-sho" (sec 52) for a period of one full year at a time, and may cause him, or them, to continue to perform the duties, for another full year after the expiration of the first term of one year.

56. The Minister of justice shall order one judge of the Shi-Shin-sai ban sho" (sec 54) or several

judges to perform the duties of Judges in making preliminary examination, and may order them to continue in the exercise of said duties for a year or more longer.

Art. When a judge is prevented from performing his duties another judge or assistant judge may perform them. An assistant judge may be a witness or voucher in preliminary examination or public trial and may give his opinion.

Art. The "Kenji" (see Art. 1) or an assistant "Kenji" of a court of first-investigation shall perform the duties of a prosecuting official of a Court for the trial of Light-Crimes.

Art. The clerk of a "Kei-zai-sai-ban-sho" (see Art. 54) may have his duties performed by the clerk of a "Shi-shin-sai-ban-sho" (see Art. 54).

Art. The chief of police in Tokio (Yedo) and the chief officers of the Fu or Ken, (Cities or provinces) excepting the city of Tokio, shall be regarded as police officers of the Department of justice, having the same powers as a "Kenji" (Art. 38) to search out crimes. The following officials shall be regarded as assistant "Kenji" (see 38) to hunt-up crimes, as police officers of the Department of justice according to the rules laid down in Book III.

1. Superiors ordinary officers of police.
2. The Heads of wards and districts.
3. Justices of the peace.
4. The Heads of subdivisions of wards and districts where there are no ordinary police officers.

61. The police officers, "Kenji," and court officers belonging to the judicial Department shall receive orders from other like officers to collect within their jurisdictions, evidence and means of ascertaining facts needed in investigating offenses.

62. The "Kenji" (sec 58) shall make out a list of the decided and undecided cases tried in preliminary examination or public trial and shall forward it to the head "Kenji" of the "Ko-so sai-ban-sho," or Court of Appeals, He shall also at the same time forward to the head "Kenji" the list sent in by the prosecuting official of the Police Court, with his opinion appended, if required. The Chief of the court shall stamp the above list and if necessary add his opinion.

Chapter IV. "Ko-so-sai-ban-sho" or Court of Appeals.

63. In the Court of Appeals a bureau for

punishments shall be established to try appeals against the judgment of the first trial of the Court for trying Slight Crimes. (See Art. 38) Three or more judges shall conduct the trial.

14. The Chief of the Court shall order several judges of this Court to perform the duties required in the Bureau of Punishments in order during one year; and may cause them to continue in office a second full year.

15. When a judge of the Bureau of Punishments is disabled, the chief of court may make a judge of the Bureau of Civil-cases perform the duties. The Chief of the Court may at any time become the chief judge.

16. The chief of the "Kenyi" (See 58) or a Kenyi of his nomination shall perform the duties of a "Kenyi" in the Bureau of Punishments.

17. The chief "Kenyi," within the jurisdiction of the court may, perform the duty of instituting complaints usually made by a "Kenyi" of the Court for the Trial of Slight Crimes; or may cause another Kenyi belonging to the Bureau of Punishments to perform it. Complaints instituted and other duties performed as above should be reported to the prosecutor of the district.

The chief "Kenji" shall have the oversight of the Police Officers and the other "Kenji" in his jurisdiction.

68. The chief "Kenji" shall make out a list of decided and undecided cases every three months and send it in to the Minister of justice. He shall at the same time send to the Minister of justice the lists sent in from the Court for the Trial of Light Crimes, with his opinion when necessary. The Chief of the Court shall stamp the list & append his opinion when he has one to give.

69. The clerk of the court shall perform the duties of the clerk of the Bureau of Punishments.

Chapter V. Ju-zai-sai-ban-sho, or Court for the Trial of Grave Crimes.

70. This Court shall try Grave Crimes committed in its jurisdiction.

71. This court shall be opened every three months. If cases are numerous the chief of the court of Appeals, & the chief "Kenji" shall represent the case to the Minister of justice, and obtain permission to hold a special session.

72. This court may be opened in a court of Appeal, or a court of first investigation.

13. This court shall consist of the following officers:
1. One chief judge whom the chief of the Court of Appeal shall appoint from among the judges of said Court.
2. Two associate judges. When this court is opened in a court of appeal the head of that court shall appoint these associate judges, from among the judges of that court; when it is opened in a court of first investigation the chief of that court and the judges who have served largest shall be appointed.

14. The chief "Kenji" or a "Kenji" of the Court of Appeals appointed by him shall perform the duties of the prosecutor in the court for the trial of Grave Crimes. When this court is held in a court of first-investigation, the Chief "Kenji" shall cause a "Kenji" of this latter court to perform the duties of the prosecutor.

15. The duties of the Clerk of a Court for the Trial of Grave Crimes shall be performed by the Clerk of the court in which this court is held.

16. The Chief Kenji of the Court of Appeals after this court is closed shall make out a list of decided & undecided cases & forward it to

the Minister of justice. The chief of the Court of Appeals shall stamp this list, and add his opinion when he has one to give.

Chapter VI. The Tai-shin-in or Supreme Court.

77. In the Tai-shin-in a Bureau of Punishments shall be established to decide the following cases:

1. Appeals.
2. Claims for re-hearing.
3. Requests to have jurisdiction determined.
4. Requests to have jurisdiction removed for the sake of public peace & security.

78. No cases can be tried in the Bureau of Punishments unless there are five or more judges.

79. On the representation of the Minister of justice to the Emperor the duties of judges in the Bureau of Criminal Cases shall be assigned to judges of the Tai-shin-in, or Supreme Court. If these judges are prevented from serving, judges of the Bureau of Civil Cases shall be appointed in the order of their seniority.

80. The Chief Kenji of the Supreme Court or a Kenji appointed by him shall perform the duties of a prosecutor in the Bureau of Criminal Cases.

§1. The Clerk of the Supreme Court shall perform the duties of clerk in the Bureau of Criminal Cases.

§2. The Head Kenji shall, every three months, make out a list of decided and undecided cases and forward it to the Minister of Justice. The Head of the Supreme Court shall stamp this list and add his opinion, when he has occasion to give.

Chapter VII. The Ko-to-ho-in, or High-Court.

§3. The offenses mentioned in Chaps. I & II of the II Book of the "Criminal Code" shall be tried in this court. Also Grave Crimes committed by nobles, and Light Crimes punishable with Confinement, and Grave Crimes committed by commissioned officers of government shall be tried in this court; as also principals and accessaries of the above persons, without regard to rank.

§4. This court shall be opened at the discretion of the Emperor on representation from the Minister of justice. The cases to be tried and the places for holding the court shall also be determined by the Emperor.

§5. This Court shall consist of the following officers:
1. One Chief & six assistant judicial officers to be

appointed beforehand by Imperial authority from the Senators and judges of the Supreme Court.

2. The provincial judicial officers appointed in the same manner as the foregoing.

86. The duty of conducting the preliminary examination shall be ~~conducted~~ performed by one judge or more of the Bureau of Criminal cases in the Supreme Court, according to Imperial Order.

87. The Head Kenji of the Supreme Court or a Kenji nominated by the Minister of justice, shall perform the duties of prosecutor in this court of the "Ko-to-ho-in".

88. The clerk of the Supreme Court shall perform the duties of the Clerk of the "Koto-ho-in" or High Rank Court.

89. No appeal from the decision of this Court will be allowed except in the following cases:

1. Objections in case of the trial of an absentee.
2. Petition in cases like those described Art. 436.
3. Claims for re-hearing like those described in Art. 489.

90. When the cases are numerous, or when a claim for rehearing is to be tried members of the court shall be appointed anew.

91. The method of procedure in making complaints in this court shall be according to the usual rules.

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Book III. Seeking out crimes: Instituting process; and Preliminary Examination.

Chapter I. Of Seeking out crimes.

92. The "Kenyi" when by complaint, report, or actual observation or by any other means, learns that an offense has been committed, shall seek out the evidence and the offender, & institute proceedings, according to the rules given in Articles 107 & onward.

Section I Complaint & information.

93. Any one who has received injury in consequence of the commission of a Grave or Light Crime shall complain to the judge of a court of preliminary Examination, to a "Kenyi" or to a police officer of the Department of justice, in the place where the offense was committed, or the defendant resides.

When a judge of a Preliminary Court receives

a complaint he shall take steps as directed in Art. 114 and onward.

When a "Kenji" receives a complaint he shall act as directed in Art. 107 and onward.

When a police officer of the Department of justice receives a complaint he shall at once forward the documents to a "Kenji."

In the case of an infraction of police regulations complaint may be made to the "Kenji" of a Police Court, or to a police officer of the Department of justice. When such police officer receives a complaint he shall hand it over to a "Kenji" of the police Court.

94. The person making complaint shall, if possible, furnish the proof and means of ascertaining the facts in the case. He may also according to Art. 110 and onward become plaintiff in civil-cases.

95. The complaint shall be in writing signed and sealed by the person making complaint. It may be by word of mouth, in which case the official receiving the complaint shall make out a written statement of the case and read it to the person making the

complaint and both the official and the complainant shall sign & seal this statement. If the person complaining cannot sign it a note shall be made of this fact.

A certificate to the effect that the complaint has been received shall be delivered to the person making the complaint.

96. If an official in the exercise of his official duties ascertains or is led to believe that a Grave or Light Crime has been committed he shall report the matter to the "Kenji" of the district in which he is employed or engaged. This report shall be in writing signed with the name of the official and sealed by him. If possible the proof, and means of ascertaining the facts should be enclosed. A report or information respecting an infraction of the police regulations shall be made to the "Kenji" of the Police Court.

97. When any person whatever ascertains or is led to believe that a Grave or Light Crime has been committed, he may report the matter to a judge, a "Kenji", or to a police officer of the Judicial Department in the place where he resides, or where the crime has been committed

according to Arts. 94, 95. The official who receives this report shall act as directed in Art. 93.

98. Complaints and reports may be made by a substitute, except in the case mentioned in Art. 96. above. The complaint of a powerless person when made by a legal substitute is valid.

99. Complaints or reports may be withdrawn or altered. In this case even the claim of the defendant for damages according to Art. 16 shall be received.

Section II Crimes detected in the act of commission.

100. The offenses considered in this section are those which are discovered in the act of commission or immediately afterwards.

101. In the case of Grave or Light Crimes the following shall be considered as belonging to the class named in Sec. II.:

1. When any one is pursued as an offender by one or more persons.

2. When any one has on his person weapons, stolen goods, or other things such as offenders

are supposed likely to carry.

3. When a district civil officer, the Kocho shall request the officials to investigate a crime committed in a house, etc arrest a person supposed to be an offender.

102. When police officers of the Judicial Department, or police-men, in the performance of their appropriate duties perceive a Grave or Light Crime being actually committed they shall arrest the defendant without a writ.

When they find any one in the act of violating the Police regulations they shall enquire for the name and residence of the defendant and report him to the Kenji of the Police Court: when the name and residence are not clear or when there is fear lest the offender escape, they may bring him to the Police Court.

103. When a police-man arrests a defendant he shall draw him at once before a Police-officer of the Judicial Department. The police officer who takes charge of such defendant shall make out a written account of the arrest & notice or report of the police-man.

104. When a police officer, as above, arrests a defendant or takes charge of one, he shall make arrangements for the examination of the defendant.

105. Any person whatever when he sees a Grave or Light Crime in the act of commission may at once arrest the defendant.

106. In the case mentioned above Art. 105. the person making the arrest shall deliver the person arrested into the hands of the Police Officials. If he cannot so deliver him he may give his own name, business, residence and reasons for making the arrest to a policeman and hand over the offender also to the policeman provisionally.

When any one hands over a defendant to a policeman he shall immediately make complaint, or report the matter. The defendant or the police-man may require the person making the arrest to come along with him to the station, and the person making the arrest cannot decline to comply with the requisition, without good reason.

Chapter VII Institution of Complaints.

Section I. Institution of complaint by the "Keisi".

107. When the "Keisi" has finished his investigation of a crime he shall take the following steps:

1. Respecting a matter which he regards as a Grave Crime, he shall ask a judge of a preliminary court to make a preliminary Examination

2. Regarding a supposed light crime, he may, according to the difficulty of the case either request preliminary Examination to be made or he shall make his complaint in a Court for the Trial of Light Crimes.

3rd. Respecting a matter which he regards as an inspection of police-regulations he shall add his written opinion to the documents to be used as evidence and forward the whole to the "Kenji" of the Police Court.

4. Respecting a matter about which there is an opinion that jurisdiction is altered by reason of rank, place, or the nature of the offense, the defendant shall be sent to the "Kenji" of the court having jurisdiction.

When it is supposed that the matter charged is not a crime or that public accusation should not be received no steps shall be taken to institute proceedings.

108. When accusation is made in the cases mentioned in Art 107 notice of the proceedings shall be given to the injured party by the "Kenji".

109. When the "Kenji" requests preliminary Examination he shall forward the evidence and the means of ascertaining facts, and shall

indicate the place to make the examination, the persons to be arrested and the witnesses of the plaintiff.

Section II. Institution of complaint by the plaintiff in civil-cases.

II°. When the person injured by a Grave or Light crime intends to make a private complaint along with the Official complaint he shall give notice of this fact to a judge of the court for preliminary examination when he brings forward his case, or immediately afterward. When the judge has received notice from the person injured that he is to be plaintiff in a civil-case, he, the judge, shall consider that he has at once received an official and a private accusation even though the "Kuyi" does not institute proceedings.

When a judge, as above, receives a statement from a person injured that he is to be plaintiff as aforesaid, he, the judge shall notify the "Kuyi" of the fact.

III. The person injured may, at any time till final sentence respecting the matter officially charged is rendered, make a private complaint or may alter what he has solicited.

He may also renew his complaint after he has once withdrawn it, and may alter what he has solicited.

112. A person injured may make his private complaint, withdraw it, or relinquish his rights through an attorney

When the person injured is incompetent his lawful attorney shall act for him.

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Chap. III. Preliminary Examination.

113. With the exception of Grave and Light Crimes detected in the act the judge who makes the preliminary examination according to the rules laid down in the foregoing chapter cannot make said examination without a request from the "Kenji" or from the plaintiff in civil-cases. If he violates this rule all proceedings prior to the said request shall be void.

114. A judge who conducts preliminary examination whenever he receives a complaint or notice directly, respecting a Grave or Light Crime shall call the defendant with a summons, and may interrogate him. If he thinks the examination should be pursued he shall forward the case to a "Kenji."

When the judge who conducts the preliminary trial thinks the case brought before him demands haste, he shall issue a writ to arrest and bring the defendant, and after examination may issue a writ for his detention; in which case he must notify the "Kuyi" at once. He must also forward the evidence and things required in order to ascertain the facts. If the Kuyi does not institute proceedings within one day after said notice the defendant shall be forthwith discharged; but this shall not be an obstacle against making a complaint thereafter.

116. When the judge of the place where the defendant resides receives a complaint directly or through a "Kuyi" when the case is urgent, he shall conduct the interrogation and investigation according to the usual rules, and afterwards forward the proofs & things needful in forming an opinion of the facts to the judge of the Preliminary Court of the place where the offense was committed. If he regards the offender as worthy of a punishment higher than Confinement he may forward him under a writ of arrest and detention.

17. At any time during the preliminary examination the "Kenji" may request from the judge the documents relating to the accusation and examination, but must return them within twenty four hours. He may also at any time inquire respecting any procedure he may deem necessary.

Section I. Respecting Writs or Orders.

18. The judge who conducts the preliminary trial shall issue a summons for the defendant when he has received in charge a case of a Grave or Light Crime on the instance of a "Kenji" or a plaintiff in civil cases. Twenty four hours delay must however be allowed between the time of issuing the summons and the defendants' appearance at court. A defendant who enters court on summons must be interrogated at once at least within the day of his appearance in court.

19. When the person to be summoned does not reside within the jurisdiction of the judge the latter may indicate the points to be investigated to the judge of the place where the defendant resides, & request his co-operation.

20. When a defendant who has received a

summons does not appear in court at the time appointed, the judge may issue a writ to arrest and produce him.

121. In the following cases a judge may issue a writ of arrest at once:

1. When the defendant has no fixed residence
2. When there is fear lest the defendant destroy the evidence of his guilt or escape.
3. When there is apprehension that the defendant has the intention of committing a crime that he has attempted or threatened.

122. Any one who has received an order to carry into effect a writ of Arrest shall deliver the defendant to the judge that issued the order. A defendant who is produced on a writ of Arrest shall be examined within forty eight hours. If this time is allowed to pass by, the defendant shall be released at once, unless a writ for his detention is issued

123. When the defendant resides outside of the judge's district at the time of the issue of a writ for his arrest, he may request examination by the judge of the place in which he resides. The judge so requested shall provisionally arrest the

defendant at once notify the judge who issued the summons for the arrest, of the fact.

124. In the case mentioned in Art. 123 above the judge who issued the writ of arrest shall indicate to the judge who arrested the defendant the points to be inquired into and commit the matter to him; or he may ask that the defendant be forwarded under the writ of arrest issued by him. The judge who receives such a case in charge shall report the fact, after he has examined the defendant, to the judge who issued the writ of arrest, get his opinion, and render sentence either to release the defendant or to forward him to the court having jurisdiction under the writ of arrest already issued.

125. When a judge has clear evidence that a defendant who has received a summons or writ of arrest is not able to comply with the order, from sickness or other suppicient reason, he may interrogate him at his residence. If the defendant resides outside of the judges' jurisdiction, he shall request a judge of the place of the defendants' residence to conduct the examination.

126. A writ to arrest and detain a person cannot be issued unless there is apprehension that the defendant will escape, or (the cases mentioned Art. 123 being excepted) unless it is supposed, after examination, that he deserves to receive a punishment as severe or severer than Confinement.

127. When ten days are past after the writ of arrest and detention has been executed the judge in charge of the preliminary examination may change it for a writ of Surveillance, or he shall deliver the defendant into the care of suitable persons according to Art. 219. The "King" may request the judge not to deliver the defendant in charge, but to detain him anew for ten days longer.

128. A writ of Surveillance cannot be issued unless notice that the preliminary examination has already been begun, has been given to the "King", and his opinion obtained.

129. The following points shall be inserted in a writ of Surveillance:

1. An abstract of the accusation and of the aggravating or extenuating circumstances, when any such exist.

2. The exact section of the law under which

the crime is punished.

3. The fact that the "Kenji's" opinion has been heard.

130. In every writ the accusation, and the name, business, & residence of the defendant shall be inserted. and, with the exception of a summons, when the name is not clear a personal description shall be given. A writ shall also contain the date of its issue & be signed and sealed by the judge in charge of the preliminary Examination and the clerk. Policemen shall be employed to execute writs of arrest, detention, and Surveillance.

131. A messenger connected with the clerk's Bureau shall be employed to forward a summons to the defendant or to his residence according to Art. 23.

132. Writs of arrest, detention & Surveillance shall be valid throughout all the Empire of Japan. According to the requirements of the time several copies shall be made out and delivered to several different policemen.

In carrying into effect the writs mentioned above, the original shall be shown to the defendant & a copy given to him, in which case the 2d & 4th paragraphs of Art. 23 must be observed.

133. A policeman who has received an order

to execute a writ, when he thinks the defendant is hidden in his own or another person's house, shall get the Koche, or district recorder, or when this is impossible two neighbors to act as witnesses and search for him. The policeman, whether he finds the defendant or not, shall make out an account of the search, and, along with the witnesses shall sign and seal it. A house cannot be searched before sunrise or after sunset.

134. When the judge in charge of the preliminary examination knows or thinks that the defendant is hidden in another jurisdiction, he may, when the accusation requires haste send a policeman with a writ. The policeman shall show this writ to the judge, "Kenji" or Police-Officer of the district where the defendant resides, and ask that it be executed at once.

135. When the judge charged with the preliminary examination does not know the place where the defendant resides he shall send a description of the person of the defendant to the head Kenji of the Court of Appeals and ask him to search for and arrest him. The Head "Kenji" who has received such a request shall cause the "Kenji"

to take steps to search for and arrest the defendant.

136. When a writ is issued for a soldier employed in the Army or Navy, it shall be shown to the Chief Officer in charge who, if possible, shall oblige the soldier to comply with the demands of the writ. This shall be done even when the army is in service.

137 A defendant who has received a writ of detention or surveillance shall at once be delivered up to the officers of the guard-house mentioned in the writ. If this cannot be done he shall be handed over temporarily to the officers in charge of the nearest guard house. In any case the Chief officer of the guard-house shall receive the defendant after examining the writ, and give a certificate to that effect.

138. A policeman who has received an order to execute a writ, when he has executed it, or when he has been unable to execute it, shall note the fact and assign the reasons in the original copy of the writ. The policeman shall forward the documents relating to the execution of the writ to the Clerks' Bureau; and the Clerk shall give a receipt for the same.

139. When the defendant who should receive a

writ of detention or surveillance is already confined in a guard-house or gail, the clerk shall give notice of this fact to the parties concerned and note the fact in the original & copies of the writ.

140. The case of close separate confinement being excepted, the defendant may see his relatives, acquaintances and attorney in the presence of the officials and according to the prison regulations. Letters, books and other writings cannot be passed between the defendant and other persons without receiving the inspection of the judge in charge of the preliminary examination who may retain such documents.

141. When the judge does not regard the person accused as deserving a punishment as high or higher than confinement he may at any stage of the proceedings cancel the writ of detention or surveillance but when he cancels a writ of surveillance he must first get the opinion of the "Kenji".

142. Copies of the "Criminal Code" & Code of Procedure shall be kept in the prison and given to the defendant at his request.

Section II. Separate Confinement in close

Apartments.

143. The judge in charge of the preliminary examination may at any stage of the procedure, if he deems it necessary in order to find out the facts in the case sentence a defendant who has received a writ of detention or surveillance, on request from the Kenji, or by his own official authority, to be confined in a close apartment.

144. The defendants who have received such sentence of confinement shall, each one, be placed in separate rooms, & without the permission of the judge, shall not see others nor interchange letters, money or other things with them. Food, drink, medicine and other things provided in the jail shall be given by a person specially appointed by the head jailer.

145. Such separate close confinement shall not exceed ten days at a time; but the sentence may be renewed every ten days. When the sentence is renewed the reason shall be reported to the chief judicial officer of the court. The judge in charge shall interrogate the defendant at least twice every ten days, and make out an account of the examination according to the usual rules.

Section VIII Evidence.

146 In law no conclusion of guilt is to be drawn from the manner of making the accusation. The confession of the defendant, the examination papers of the officials, objects presented in evidence, the statements of witnesses, and experts and all other kinds of evidence must be submitted to the judicial decision of the judges.

147. The judge in charge of the preliminary examination, at the request of the Kuni, the plaintiff in civil cases, and of the defendant, or by his own official authority, shall collect proof & evidence deemed necessary to ascertain the facts in the case.

148. The presence of the clerk is requisite when the acting judge makes special investigation, searches a house, sizes articles, or interrogates the witnesses of the defendant. The clerk shall write an account of the search and, with the judge, shall sign and seal it. When, in a case of haste outside the court, the clerk's presence cannot be had, two witnesses will be requisite. When, however the defendant is questioned in prison one of the prison officials shall be made to act as witness. In the cases mentioned above the acting judge shall himself draw up an account of the transaction.

and together with the persons present as witnesses, shall sign and seal it. Any steps taken without the presence of the clerk or witnesses shall be null and void.

Section III. Examination of the dependant and confronting him with others.

149. The acting judge shall first examine the dependant, except in cases where haste is required in order to make inspection or examine witnesses.

150. The acting judge shall not use threats or dissimulation in order to make the dependant confess his guilt.

151. The clerk shall record the questions and answers and read them to the dependant.

The acting judge shall ask the dependant whether the facts are as recorded or not and then cause him to sign and seal the document. If he cannot sign it this fact is to be noted.

The clerk shall note that he has observed the form prescribed in this Art. & sign & seal his record along with the acting judge.

152. When the dependant states that he should change, add to, or diminish from his statement the examination shall be made anew, & the questions

and answers recorded according to the foregoing Artt: and the record read to him and signed and sealed.

153. The defendant may ask for a copy of the above Statement.

154. When the acting judge thinks it important in order to prove that a defendant was an accomplice, or to prove his identity or to show any way whatever of finding out other facts, he may make him confront other defendants, witnesses, or other persons, for this purpose.

155. The clerk shall record the Statements of the persons confronted, and all matters resulting from the examination, and shall read to the parties confronted the parts relating to their cross-examination. The rules contained in Artt: 137 & 152 are applicable also when parties are confronted as above.

156. When the defendant or person who confronts him is deaf the examination shall be in writing; If the deaf or dumb person cannot read, an interpreter shall be called. The same shall be the case when the defendant and the person who confronts him do not understand the language of the country. When defendant is dumb the reply shall be in writing

157. The interpreter shall make oath that he

will translate correctly.

The clerk shall read his account of the matter to the interpreter and cause him to sign and seal it. The rules laid down Arts. 192 193 & 200 are applicable in this case also.

Section V. Examination for proof and the seizure of Articles.

158. The acting judge when he thinks necessary in order to discover facts, shall go to the place where a Grave or Light Crime has been committed and make examination for verification.

Also when requested by the Kenji, in any case whatever, special examination shall be made.

159. The acting judge shall make out an account as to how to prove clearly the identity of the defendant and the nature manner, time and place of the Crime.

He shall also append the way that would promote the advantage of the defendant.

160. When the acting judge thinks that the things discovered at a place of special investigation will by reason of their nature or character suffice to prove the identity of the defendant or the character of the crime he shall seize

them and mark them with his stamp & make a list of them. The clerk shall insure the safe keeping & forwarding of said articles.

161. When the acting judge cannot finish the examination, house searching and seizure of articles in one day he shall shut up the place or set a watch.

162 The acting judge may make special examination at the residence of the defendant or at the residence of any one whom he may fear has hidden articles calculated to show the facts in the case. When the defendant or person suspected of hiding articles is not at home, the persons, as witnesses, of relatives residing in the same place, or when these are absent, the presence of the "Kocho", or district recorder is requisite. In this case also the rule laid down in the third paragraph of Art. 133 is applicable.

163. The defendant may be present as a witness, or may cause an attorney to be present when examination and search of house takes place. If the defendant is under arrest he cannot be present as a witness except when the acting judge thinks it necessary.

The plaintiff in civil cases or his attorney may be a witness of proceedings such as are above described, but the judge must not delay the trial on this account.

164. When a house is searched the judge shall size the articles according to Art. 160. When articles are sized a copy of the list shall be delivered to the witnesses.

165. The acting judge shall show the articles sized to the defendant and make him give explanations, whether he was present when they were sized or not. He shall also write and account of the questions proposed and answers given.

166. When the acting judge thinks it necessary to hear the statements of witnesses at the place of examination he shall interrogate them specially in the presence of the clerk. Here also the rules laid down in Art. 170 and onward are applicable.

167. The judge while conducting the proceedings mentioned in the foregoing Articles may forbid anyone to enter or leave the place; and if anyone violates the prohibition he may exclude or detain him till the end of the proceedings.

168. The acting judge town in his own jurisdiction, when requested may commit the examination and search of the house to a justice of the peace of that place.

169. The acting judge when he thinks necessary in order to discover facts may assign a reason to the Transportation, Telegraph & Railroad Offices, and receive and open letters and despatches sent to or from the defendant or other persons concerned in the trial. For these documents a receipt must be given. When the forementioned documents and articles are useless they shall be returned to the offices from whence received.

Section VI Interrogation of Witnesses.

170. The acting judge shall call out the persons named as witnesses by the "Kenji" the plaintiff in civil cases and the defendant. When the number of witnesses for the plaintiff and defendant is great, in case of a Light Crime, five each, and in case of a Grave Crime, ten each, shall be called, in the order of their nomination, or according to their probable knowledge of the facts. This rule shall not be observed

when it is deemed necessary to call out-
men in order to ascertain facts. The judge
may also by his official authority call out
others not nominated by the plaintiff.

171. The witnesses shall be called in the name
of the acting judge; and the summons shall
be forwarded in the manner prescribed Art. 23.
If the witness lives in another jurisdiction
the clerk of the Court for the trial of Light-Crimes
in his district shall be requested to
send the summons.

172 The acting judge when the witness does
not reside in the jurisdiction of his court,
may get a justice of the peace in his place
of residence to conduct his examination.
When the judge does not live in the district
of the court where the witness resides he may
get a justice of the peace of that district to
conduct his examination. In the above two
cases the summons in the name of the judge
employed to conduct the examination shall be
issued from the Clerks' Bureau of said judges' court.

173. The witnesses' names, residence and bu-
siness shall be given in the summons.
It shall also be stated that the witness will be

sentenced to pay a fine or be arrested in case he does not put in an appearance at the specified time and place, according to the summons. At least twenty four hours must be allowed between the time of forwarding the summons & the appearance in court.

174. When the witness clearly shows that he cannot comply with the summons on account of sickness, public duties or other sufficient reason, the acting judge shall examine him at his residence.

175. When a proposed witness is engaged in the Army or Navy, the Summons shall be sent through the Chief Officer, who shall at once certify that he will cause him to appear at court. Or when there is any unavoidable reason for delay, he shall assign the reason and ask the judge to post-pone the appearance in court.

176. With the exception of the two cases mentioned above (Arts. 174, 175) when a witness does not obey a summons the acting judge shall get the opinion of the Kuyi, and by sentence impose a fine of from two to ten yen (from $2. to $10.) Against this sentence no objection or appeal can be made. The acting judge may, along with the sentence against the witness to pay a fine, issue a second summons, or a writ of arrest at once.

the expenses to be paid by the witness. If the witness does not comply with this second summons his fine shall be doubled and a writ of arrest issued.

177. When the witness can show that he did not receive the first or second summons, or that the summons itself was contrary to Art. 173 or that he could not appear in court on account of some sufficient reason hard to be foreseen, the judge shall get the opinion of the "Kuyi" and cancel the sentence to pay a fine.

178. When a witness enters court on a summons he shall hand it to the clerk. If he has lost it he shall prove his own identity.

179. The acting judge shall ask the name, age, business, & residence of the person called as a witness, and shall ask him whether or not he is such a person as is described Art. 181.

180. The judge shall make the witness swear that he will speak the truth without fear or favor. The judge shall read the oath to the witness and make him sign and seal it. If he cannot sign and seal it, this fact is to be appended. The written oath shall be filed with the written charges.

181. The following cannot be witnesses, but

their statements may be heard in
order to ascertain facts:
1. The plaintiff in civil cases.
2. Relatives of the plaintiff in civil-
cases or of the defendant.
3. Guardians of the plaintiff or defendant
or persons under their supervision.
4. Employees of the plaintiff or defendant.

182 The following also cannot be witnesses:
1. Children under sixteen years of age.
2. Persons of defective understanding.
3. Deaf and dumb persons.
4. Persons whose civil rights have
been taken away or suspended.
5. Persons sentenced to be transferred to a court
for the Trial of Grave Crimes, or persons marked
for public trial for a Light Crime punish-
able with Severe Confinement.
6. One who has been accused on a point
not yet cleared up, and released from lack of evidence.

183. When a witness will not swear, or having
sworn will not testify, the acting judge shall consult
the "Hoei", and sentence him to pay a fine
according to Art. 180 of the Criminal Code. From
this sentence no appeal can be made.

Physicians, apothecaries, midwives, attorneys advocates, Government witnesses or priests who in the exercise of their callings have been entrusted with secrets are excepted from the operation of this law.

184. The several witnesses and dependants shall each be examined separately. When it is thought necessary, the witnesses and the dependant may be made to confront each other, to elicit facts.

185. The acting judge may (when he thinks necessary in order to verify a witness' testimony) take him to the place where a Grave or Light Crime was committed, or to any other place. If the witness refuses to go along he shall be sentenced to pay a fine according to Art. 176.

186. Arts. 136 & 137 are applicable to witnesses also.

187. When a noble or Commissioned Officer is a witness the acting judge and clerk shall take his testimony at his residence.

188. The clerk shall keep notes of the witness' testimony, to which notes he shall append the fact of the witness taking oath or his reasons for not taking it.

189. The acting clerk shall make the clerk read his notes to the witness to let him see whether they are correct or not as regards his testimony.

The witness may ask to alter, add to or take from his testimony, and the clerk shall record this fact together with the points altered, inserted, or taken away, and the acting judge & witness shall both sign and seal the record. In case the witness cannot sign it this fact shall be recorded.

190. The witness may at once ask for his travelling expenses and daily allowance for appearing at court. If he is a day laborer he may ask for an amount equal to his days wages in addition to his travelling expenses & daily allowance. In this case the acting judge shall determine the amount & order it to be paid.

Section VII. Of Experts.

191. When the acting judge thinks it necessary in order to ascertain the nature, manner & result of an offense he shall cause one or more persons who are qualified by reason of their learning or business, to make an examination.

192. The Experts shall be called by summons from the clerks' Bureau in which the facts that they are called to render opinion in the case of a Crime, & that they will be fined if they do not obey the summons shall be stated.

If the experts do not obey the summons they shall be dealt with according to Art. 176. but no writ of arrest shall be issued. Art 177 shall also be applicable in this case.

193. The Experts shall take an oath that they will decide truly. The oath shall be in the form prescribed Art 180. The clerk shall note the fact that oath was taken, in the margin of the order to act as experts. and file the written oath therewith.

194. If the Experts shall refuse to swear, or after having sworn shall refuse to act as experts the acting judge shall get the opinion of the "Kenji" and sentence them to pay a fine according to Art. 178 of the Criminal Code. Against this sentence no objection or appeal shall be made.

195. The persons described in Arts. 181, 182 cannot be ordered to act as Experts, but they may be ordered to act as experts, in cases of emergency to ascertain facts, when there are no proper experts to be found.

196. If possible the acting judge shall be present at the time when the experts decide a matter.

197. The acting judge by his own authority or at the request of the experts may increase their

member, or he may make other experts perform the duties.

198. The Experts shall make a written report and state particularly the method, result and time of making their examination. If they do not reach any decision they shall state what they suppose to be the facts. When the Experts differ in opinion each one shall make out a written report: or each one may state his opinion in the one report.

199. The Experts shall give the day month and year in their report, and sign and seal it. The day month and year when the acting judge received the report shall be stated therein and the whole signed by the judge and clerk together. The report shall be filed along with the order to act as Experts. When a foreigner acts as an expert, a translation of his report made by an interpreter appointed by the court shall be filed along with the report.

200. Travelling expenses, wages and other suitable compensation shall be given to Experts and interpreters.

Section VIII Crimes detected in the act. Their trial.

201. In case the acting judge learns of a Grave or Light Crime detected in the act by the "King"

learns of it, he may, if the case demands haste report the matter at once and begin the trial without waiting for the petition of the "Kenji."

The acting judge may make special investigation at the place of commission, issue writs and take other steps requisite in the trial according to the rules laid down in this chapter.

202. In the foregoing case the acting judge may regard his written account of his search for evidence as equivalent to a public accusation, even though the "Kenji" does not institute process. In this written account it must be stated that the offense is a Grave or Light Crime detected in the act.

The acting judge shall at once forward the documents to the Kenji, and though the Kenji is of opinion that the trial should not be continued, he shall conclude it according to the usual rules.

203. When the Kenji learns of a Grave or Light Crime detected in the act by the acting judge learns of it, without waiting for the judge he may give him notice of the fact, and proceed to make special investigation at the place of commission and conduct proceedings proper for the judge; but he cannot issue sentence to pay a fine. He shall hear the testimony of witnesses and experts not under oath.

204. In the forementioned cases the "Kenji" shall add his written opinion to the documents in evidence and forward the whole at once to the judge.

205. A Police officer of the judicial Department may perform the same duties as a Kenji according to Art. 203, but he cannot issue a writ. Such Police officer shall add his opinion to the documents in evidence and forward the whole to the "Kenji" with the dependant.

206. When the Kenji has received the dependant he shall examine him within twenty four hours, make out his notes of examination, and, not asking whether a writ of arrest has been issued or not, add his request to the other documents & forward them to the judge. If he thinks process should not be instituted he shall forthwith release the dependant.

207. The judge shall examine the dependant within twenty four hours. In this case he may or may not annul the writ of arrest issued by the "Kenji".

208. The acting judge may make anew the examinations made by the "Kenji" or Police Official; but the notes of the examination made by the Kenji or Police Official shall be added to & filed with the documents in the complaint.

209. In the case of the actual commission of a light crime the Kenji without regard to whether a writ of

detention has been issued or not, after examination of the accused, if he thinks it necessary to ask for a preliminary examination may summon him to a Court for the Trial of Light Crimes.

Section IX. Bail.

10. The acting judge, in the course of the trial may at the request of a defendant who has received a writ of arrest or detention, get the opinion of the "Kenji" and at any time make him give written security that he will appear at court in answer to his summons, and may thereupon grant him bail. When the defendant is incompetent his relatives may ask bail.

11. The written security or bond mentioned in the last Art. shall be forwarded to the Clerk's Bureau. When the defendant is to be summoned while on bail he shall have notice twenty four hours before appearing at court.

12. In granting bail, the defendant shall give security for his appearance at court in a sum of money, the amount to be fixed by the judge and stated in the order granting release on bail.

13. In giving security the defendant or other shall deposit in the Clerk's Bureau the security money or a bank or broker's bill for the amount. A person of means who resides within the jurisdiction

of the court may give his bond for the amount.

214. If the defendant while abroad on bail re-
ceives a summons and without sufficient
reason fails to comply, the whole or a part
of his bail money shall be forfeited.

215. In confiscating the bail-money the judge
shall get the opinion of the Kenji and render
sentence to that effect. When others are in-
volved as bonds-men the money shall be col-
lected according to the regulations of the Civil Code.

216. When the acting judge has confiscated the
bail-money he shall cancel the sentence to
release on bail. Also when he thinks it
needful to cancel this sentence during
the trial he shall take the advice of the
"Kenji" and cancel it thereupon.

217. After the acting judge has confiscated the
bail money it shall be returned to the ac-
cused with the advice of the Kenji, in case
a sentence to release pend the charge or a
sentence to transfer to a police court, or a
sentence to transfer a case of Light Crime
punishable with a fine to a Court for the
Trial of Light Crimes is rendered.

218 When the acting judge renders a sentence

to release pon the accusation or to transfer the case to a police-court, or to transfer it to a Court for the Trial of Light Crimes where it will be punished with a fine, or when he cancels an order to release on bail, the security money shall be returned.

219. The acting judge may get the opinion of the Kenji, and without regard as to whether there is a request to release on bail or not he may then deliver the defendant into the keeping of his relatives or friends.

Section X. Conclusion of the Preliminary Trial.

220. When the acting judge regards a matter charged as outside of his jurisdiction, or when he thinks it not necessary to examine it further, he shall forward all the documents connected with the complaint to the "Kenji" in order to get his opinion as to the steps to be taken in concluding the trial. The Kenji shall append his opinion to the documents & return them within three days.

221 If the Kenji thinks the trial is insufficient he may ask that the case be examined anew. If the acting judge does not comply with the request, the Kenji shall add his opinion to the

documents connected with the charge & return them within twenty four hours.

222. The acting judge whatever the opinion of the Kenji may be shall conclude the trial with a sentence as stated hereafter.

223. When the acting judge considers that the accusation is not within his jurisdiction he shall render sentence to that effect. If he regards the accused as worthy of detention he shall let the writs before issued remain in force, or he shall issue new writs & transfer the matter to the Kenji.

224. In the following cases the acting judge shall render sentence to release from the charge: and if the dependant is under detention he shall issue sentence to release him:

1. When the evidence is not sufficient.
2. When the matter charged is not a crime.
3. When the Official complaint has expired by the Statute of Limitations.
4. When Sentence is irrevocable (see Art. 9.)
5. When there is a General Release.
6. When by law the offense is entirely remitted.

For the cases mentioned in this Article the

defendant cannot bring a claim for damages except in a civil court.

225. When the matter charged is considered to be an infraction of police regulations he shall render sentence to transfer the case to a Police Court; and if the defendant is under arrest he shall, by sentence, order his release.

226. When the matter charged is regarded as a Light Crime, he shall render sentence to transfer it to a Court for the Trial of Light Crimes. When the defendant is under arrest and is thought deserving of a fine only, the judge shall render sentence to release him.

When he is thought worthy of Emprisonment he may be released on bail or delivered in charge. If the defendant has not yet been put under arrest, a writ may be issued.

227. When the matter charged is regarded as a Grave Crime the judge shall render sentence to transfer it to a Court for Grave Crimes. If the accused has been released on bail or delivered in charge the order to do so shall be cancelled. In the written sentence to transfer to a Court for Grave Crimes it shall be stated in writing that the accused

shall be kept in the prison of the court
where the preliminary trial took place until
orders are received from the head Kings'
of the Court of Appeals.

228. In the concluding sentence of the trial
the reasons according to facts and law shall
be assigned. In a sentence asserting
want of jurisdiction the reasons shall
be given, as also in a sentence stating that
the defendant should remain under arrest.
In making a sentence to release from the
accusation the fact that the matter charged
is not a crime, and the fact that the public
accusation should not be entertained and
why, should be stated; as also the fact
that the evidence is inadequate, when this
is the case. When a sentence to transfer
to a Police Court, a Court for Light Crimes
or a Court for Grave Crimes is rendered
the nature and manner of the offense, the
sufficiency of the evidence, and the law
according to which it should be punished
should be stated.

229. In the foregoing sentences the name
of the accused should be given according

to Art. 130.

230. The clerk shall at once forward a copy of the sentence of the preliminary examination to the Kenji, to the plaintiff in civil cases & to the defendant. These parties may however according to Art. 246 & onward object to the sentence.

231 When a sentence to transfer a case to a court for Grave Crimes, or to a court for Light Crimes in which the crime committed is punishable with Confinement, in case the accused cannot be arrested, this fact must be stated in the sentence; & the accused cannot appeal from this sentence unless he comes actually under detention.

232. In the above case, Art. 231, the Kenji or the plaintiff in civil cases may ask a civil court to lay an injunction on the property of the defendant for the time.

233. When the final sentence of the preliminary trial is rendered the acting judge shall at once notify the chief of the court of the fact. He shall also, every fifteen days, render a succinct account, in writing, of the unsuccided cases.

Chapter IV. Appeals from Preliminary Trial.

234. In the following cases the Kenji or Defendant may object to the proceedings at any time until the conclusion of the Preliminary Trial.

1. When a statement that the court has no jurisdiction is denied.
2. When a writ is issued or withheld contrary to the law.
3. When, contrary to the law, bail is granted or refused, or the defendant delivered in charge or not delivered in charge.
(4.) When the officials exceed the limits of their authority.

The plaintiff in civil cases, respecting a private suit may object in the fourth case named above.

235. A person intending to raise such objections must forward a document stating his intentions to the Clerk's Bureau of the court. When an objection is raised the clerk shall send a copy of the document setting forth the objectors' intention to the Opponent who may send in his written rejoinder within three days. The carrying out of the steps of the preliminary Examination must not be stopped on account of an objection. When an objection is made by a Kenji to granting release on bail or to delivering a defendant into the care of others, these steps shall not be taken.

236. The objection shall be decided in the Consultation Bureau of the court by three or more judges with the documents setting forth the aim of the objector,

the rejoinder, the documents containing the accusation & the "Renji's" written opinion beforthem.

The sentence of the Consultation Bureau shall be at once executed, but an appeal may be taken against it after the final sentence of the Preliminary Trial has been rendered.

237. In the following cases the Renji, defendant, and plaintiff in civil cases, may object to and oust a judge until the conclusion of the Preliminary Trial:

1. When the judge, or his wife, is related to the defendant the injured party, or their wives.

2. When the judge is the guardian of the defendant or plaintiff in civil-cases.

3. When gifts, though not bribes, have been received, or the offer quietly entertained by the judge or his wife from the civil plaintiff, the defendant or their relatives.

238. The statement of the above objection, Art. 237 shall be made to the judge. When this statement is made two copies of the writing containing the intention of the objector shall be sent into the clerk's Bureau.

The clerk shall send the writing containing the intention to the judge, & the judge shall take cognizance of it within twenty four hours after its reception, or he shall append the fact of its rejection in the margin.

of the document itself, & file an copy in the Clerks' Bureau, and send an copy to the original party.

239. When the acting judge rejects such a statement of objection, the person who made the statement may object to this act of the judge.

The Bureau of Examination shall decide the case in the written statement of the objector and explanation of the judge also in writing.

240. The acting judge shall continue the steps of the trial pending, notwithstanding his being objected to personally, or his being objected to for having rejected the statement made in this regard; but he cannot render final decision.

In cases that do not demand haste he may suspend proceedings.

241. When an objection against an obnoxious judge has been rejected in the Bureau of Examination an appeal may be made but not till after the final sentence in the Preliminary Trial has been rendered.

242. When the judge himself is aware of the existence of any of the reasons assigned Art. 37 or when he thinks himself that he ought to resign he shall make a statement to this effect to the Bureau of Examination which shall take his

statement into consideration & decide on it.

143. When an objection against a judge or an offer of resignation is accepted by the Bureau of Consultation, the head of the Court shall make another judge conduct the Preliminary trial. This judge at the request of the Kenji or other persons concerned in the complaint, or by his own authority, may re-examine the steps taken by the previous judge.

144. The Clerk may himself resign, or he may be ousted on representations made by the Kenji or other person concerned in the case to the Bureau of Consultation.

145. The Kenji cannot be removed by the defendant or civil plaintiff. When a Kenji thinks he ought to resign he may make a statement to that effect to the Bureau of Consultation. When a vice Kenji thinks that he himself ought to resign he shall make a statement to that effect to the Kenji who shall accede to or reject it.

146. A Kenji may object to every final sentence in preliminary examination, and a civil plaintiff may object when steps are taken in which the officers exceed their authority. A defendant may object to a sentence to transfer a case to a Court for Grave Crimes.

Against a sentence to transfer to a Court for Light Crimes, or to a Police Court no objection can be made except when the judge who conducted the preliminary trial had no jurisdiction, or exceeded his authority, or when the court to which the case is transferred has not jurisdiction.

247. The period in which an objection shall be made is one day, counting from the time when the sentence was forwarded.

248. When the Kenji, civil plaintiff or defendant makes an objection, he shall forward his written statement to the Clerks' Bureau, and the Clerk shall at once give notice to the respondent. The person who states an objection shall within three days forward to the clerks' Bureau a written statement of his aim. The Clerk shall at once send this written statement to the respondent who may make a rejoinder in the space of three days.

249. When an objection is made a counter objection may be made by the respondent at any time till the case is decided. When such counter objection is made, the written notice of intention shall be forwarded by the Clerk to the respondent who shall send in a rejoinder within three days.

250. The execution of the final sentence in the prelim-

many trial shall be suspended when an objection is made, till it is decided; but a sentence to empine a dependant or to cancel an order to bail or to deliver in charge does not have its execution suspended.

51. The clerk shall forward the objection, the statement of aim, the rejoinder and other documents bearing on the case to the Bureau of Consultation.

52. In the Bureau of Consultation the objection shall be decided according to Art. 236.

When the sentence of the judge who conducted the preliminary trial is approved, this fact shall be stated. When the whole or a part is canceled a new sentence respecting the whole matter shall be rendered. Also a sentence to release the dependant on bail, to deliver him in charge, or empine him may be made.

53. When deemed necessary by the Bureau of Consultation, a judge may be made to retry the case, or reexamine certain indicated points and make a written report.

54 When in the course of examination into an objection it is discovered by the Bureau of Consultation, that the judge had not jurisdiction, exceeded his authority, or entertained a complaint that ought not to have been entertained the

Bureau by its official authority may set aside the sentence of the judge who conducted the preliminary examination.

255. When in considering an objection it is discovered by the Bureau of Consultation that there is an accomplice against whom process has not been instituted or a person who has not undergone preliminary examination for a crime jointly committed, the Bureau, at the request of the "Kenji", or by its own authority shall appoint one judge to make the preliminary trial and render a report thereon. The Kenji shall give his opinion. The Bureau of Consultation shall receive the report and the documents, and on them decide the case along with the objection.

256. When an objection is decided, copies of the sentence shall be sent at once to the Kenji, the civil plaintiff, and the defendant.

257. The Kenji and others concerned in the case may appeal against the sentence of the Bureau of Consultation.

258. In the sentence to be sent to the defendant the fact that and the time in which he may appeal against the sentence shall be stated. When these facts are not stated the defendant

shall not lose his right of appeal until a new sentence is sent to him according to law.

159. Articles 311, 312 & 313 are applicable in cases of appeal against a sentence rendered after preliminary trial.

160 - When a sentence to transfer a case to a Court for Grave Crimes is determined upon the Kenji shall enclose all the documents with this sentence and forward the whole at once to the Head Kenji of the Court of Appeal. The Head Kenji shall order a Kenji to transfer all the documents and articles to be used as evidence, and the defendant, to a Court for Grave Crimes.

When the sentence is to transfer the case to a Court for Grave Crimes the Kenji shall at once carry the sentence into Execution.

161. When a defendant has been released from a charge and this sentence has been confirmed, he cannot be accused for the same offense under a different name, in any case, except when new evidence is discovered. When new evidence is discovered the Kenji shall send it to the Bureau of Consultation and this Bureau shall determine whether proceedings shall be instituted or not.

Book IV. Public Trial

Chapter I. General Rules.

262. Cases shall be taken up in the order in which they are recorded in the clerk's record book. The Head of the Court may change the order for the purpose of diminishing the period of confinement of one in trial who is under arrest.

Also for important reasons he may change the order at the request of the Kuji or other persons concerned in the complaint.

263. The examination of Grave Crimes, Light Crimes, and Trespactions of Police Regulations & the arguments, and the giving of sentence shall be in open court. When this is not the case the sentence shall be null and void.

264. When there is fear that the case will disturb the public peace, result in disorder or injure morals, the court, at the request of the Kuji, or by its own authority may exclude listeners, but they are to be admitted again when sentence is rendered.

265. The defendant shall not be bound when in court, but guards of soldiers may be set. When a defendant in good health, who deserves a punishment heavier than Confinement appears in court

Court he may be brought. If he refuses to
discuss his case when he has entered court
sentence shall be rendered as if he had
responded, i.e. the accused shall be regarded
as present not as absent.

66 The defendant may employ an advocate
to plead for him. This advocate shall be chosen
from among the attorneys connected with the Court;
but with the consent of the court, one who is not
an attorney may act as counsel for the defendant.

67. When the defendant is violent or noisy in the
court so as to interrupt the argument the
judge shall admonish him a second time
and if he does not then submit to the rules,
the judge, at the request of the Kenji, or by his
own official authority, may expel him from the
court or confine him. For the above case
the trial shall go on and the sentence of the
court be rendered as when the parties confront
each other. If the argument lasts for two days the de-
fendant shall be made to enter court again.

68. If the defendant is discomposed in mind or
distracted or sick, so that he cannot enter court the
argument shall be postponed till his recovery.
If the defendant becomes discomposed or distracted

after the argument has commenced the
argument shall be renewed after his recovery
from the beginning. If he is taken with any other
sickness the case shall be taken up at the point
where it was interrupted, after his recovery. But if
the discussion is suspended for five days, or when the
King or others concerned in the complaint re-
quest it the argument shall be begun anew.
If the discussion respecting the accusation &
the applicability of the law is already concluded
no re-examination of the case shall take place
after recovery, but the sentence of the court
shall be rendered.

269. If a defendant who deserves a punishment
as heavy as banishment, or heavier, does not
appear in open court at the time appointed
the case shall not be decided in his absence
unless there is evidence that the final sen-
tence of the preliminary Court or the summons
was not forwarded to him. In case the final sen-
tence of the preliminary trial or the summons
cannot be forwarded to the defendant a period
of delay shall be fixed by the court and if
the defendant does not appear in the
given time notice of the trial of his case

in his absence shall be sent to his relatives & Recorder. ed?

270. An advocate shall not be allowed to an absent dependant, but relatives or acquaintances may explain the reasin why he could not be present. When the court considers these reasons suppicient, it shall get the opinion of the Kenji and post-pone the trial.

271. When of several dependants one or more does not appear in court the case shall go on according to the usual rules with the others as if all were present.

272. The chief of court shall take suitable steps for conducting all matters in the court. When any one hinders the discussion by any vilipication the chief of the court shall restrain or expel him.

273. When there is a person in the court who has committed a Light Crime or violation the Police Regulations in the court, the chief of court shall without regard to his rank arrest him, get the opinion of the Kenji and at once try him, or sentence him to be tried at the next public court. The clerk shall take notes on the spot of the crime committed and of the steps taken by the chief of court.

274. In the foregoing cases in a police court the trial shall be final as respects the infraction of police regulations, but initial as respects a Light Crime. In a Court for Light Crimes the trial shall be final as respects a Light Crime. So too in other Inferior Courts.

275. When any one commits a Grave Crime in Court the Chief of the Court shall examine the defendant and witnesses, make out notes of examination, take the opinion of the Kenji in the Court and render sentence to forward the case to a court for preliminary examination to be tried according to the usual rules.

276. In court no investigation can be made of a matter concerning which no complaint has been received, unless it be a connected case or matter discovered in the course of the argument, or an offense committed in the court. When it is thought necessary to make preliminary examination of a connected case the trial of the original case may be suspended.

277. The Kenji, the defendant & securities in civil cases without regard to whether the trial is final or initial may at any time, till decision in the case is rendered, make

statement that the court has no jurisdiction, or that the charge should not be entertained. Sentence may be rendered in the court by its official authority that jurisdiction is wanting and that the complaint should not be entertained.

278. When the preventional statements are rejected by the court, an appeal or reference may be made without waiting for the decision of the court on the case in hand. When this happens discussion of the case shall be suspended.

279. The Recorder and others concerned in the accusation, when any of the reasons assigned in Art 237 actually exist, may object to a judge or clerk of a Police Court, a Court for Light Crimes, a Court of Appeals or a Court for Grave Crimes. They may also object when the judge who conducts the preliminary examination is concerned in the public trial, or when the judge who conducted the initial trial is concerned in the final trial.

280. Such objections, (Art 279) may be made at any time until the sentence of the court in the case is rendered. When an objection is so made discussion of the case shall stop.

281. For making objections, offering resignation, and in deciding on their acceptance or rejection, the rules laid down Arts. 238–245 shall be followed.

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282. When an objection or an offer of resignation is rejected, the case shall be continued from the point where it was interrupted and carried on. If discussion has been interrupted for five days time it shall begin anew. The same shall be the case when an interruption has been caused by some natural calamity.

283. The proof to be employed in the public trial is the same as that used in preliminary examination.

284. The chief of court at the request of the Kenji or others concerned in the complaint, or by his official authority, may cause the examination papers made by officials within the jurisdiction of the Preliminary Court or the documents containing evidence elicited on official examination to be read aloud. These documents shall have the same force as the testimony of witnesses for the plaintiff or defendant.

285. The police officer who has drawn up accounts of examinations may be called as a witness by the Kenji or others concerned in the accusation; or he may be called by the official authority of the court.

The judge who conducted the preliminary examination may be called, by the court, or by the Kenji or others concerned in the accusation, with the consent of the court, to explain the examination papers.

286. A witness examined in the preliminary trial may be called out again. The testimony of a witness taken down in the preliminary examination may be read aloud in court at the option of the chief of court or at the request of the Kenji or others concerned in the accusation; when the witness is not called anew or when he fails to appear in court in answer to a summons, or when it is necessary to compare testimony given in preliminary examination or public trial.

287. Articles 78 and onward are also applicable to witnesses.

288. Witnesses shall not be allowed to exchange words nor to be present during pleading before rendering their testimony.

289. Witnesses shall be examined in the following order:

1. Witnesses called at the request of the Kenji.
2. Witnesses called at the request of the civil plaintiff.
3. Witnesses called at the request of the defendant. or of securities in civil cases.

290. When there are several witnesses of each class — they shall be examined in the order of the list of names. The chief of court may get the opinion of the person who called the witness & change this order.

291. The chief of court only has the right to ex-

amine the defendant & witnesses. The associate judge and Kenji may by giving notice to the Chief of Court interrogate the defendant & witnesses. Persons concerned in the accusation may ask the chief of Court to interrogate a witness in order to clear up a point deemed important in discussion.

292. When the testimony of a witness is deemed false or malicious and deserving of punishment as heavy as or heavier than Confinement the Court shall arrest him by its own authority or at the request of the Kenji or others interested in the charge and issue sentence to forward him under a writ of arrest to a judge for preliminary examination. The clerk shall take down the testimony of such witnesses & forward it to the judge who conducts the preliminary examination. In this case the court may issue an order to postpone the trial of the case in hand on its own authority or at the request of the Kenji or others concerned in the accusation.

292½. When a witness does not respond to a summons the court shall at once take the opinion of the Kenji and issue sentence imposing a fine according to the following table:

1. In case of infraction of Police regulations, from 50 sen to 1.95 sen ($0.50, $1.95)

2. In case of Light Crime punishable from 2 to 10 yen (¥2-¥10) A sentence to fine shall not be rendered when the defendant is absent even though the witness declines to respond to the summons.

94. The clerk shall at once send the above sentences to the proper parties. When a person who has received a sentence can show just and sufficient reason why he could not appear at court within three days the court shall take the opinion of the Kuyi and cancel the sentence to pay a fine. After a Court for Grave Crimes is closed, however, the above statement shall be made in an open court for Grave Crimes.

95. When a witness does not comply with a summons the court by its own authority or at the request of the Kuyi or others concerned in the charge may issue an order to post-pone the public trial. When the Kuyi himself does not desire the post-ponement he may state his opinion respecting it.

96. When a witness does not respond to a second summons which he has received, the court shall get the opinion of the Kuyi, and sentence him to pay a fine double that before mentioned and the costs of a second summons. In this case also, as stated above (Art. 295) the public trial may be post poned according to rule.

When post-pavement takes place a writ of arrest shall be issued against the witness.

297. The rules laid down Art. 191 & onward are also applicable to Experts chosen in time of a public trial. If the Expert does not answer his summons he shall be dealt with according to Art. 293.

When an expert is recalled to make explanations regarding his previous testimony he shall be dealt with according to the rules previously laid down in this code respecting witnesses.

298. When the dependant is deaf, dumb or unable to speak the vernacular Arts. 186-7, must be followed.

299. When there are several dependants the Chief of Court shall express his opinion & get the opinion of the Kenji and other persons concerned in the accusation and determine the order of their examination. The Chief of Court when he thinks necessary in order to discover facts may by his official authority change this order.

300. After the evidence has been examined the Kenji, civil-plaintiff, dependant, his attorney & civil-securities shall speak in order. The statements of the Kenji & others concerned in the prosecution can not be interrupted by others. The Kenji and others concerned in the prosecution may argue

the case alternately. After this argument is ended the defendant or his attorney shall speak.

301. Though the King abandons the accusation the case shall receive fair trial in the court.

302. When in the course of argument there is a difference of opinion respecting the steps of the public-trial the Court shall at once take the opinion of the King and decide it; and against this decision no appeal can be taken till after the sentence of the court in the case has been rendered.

303. Civil securities may, whether the trial is initial or final, at any time participate in the suit. and the civil-plaintiff may cause the civil securities to participate in the suit. If a difference of opinion takes place the court shall decide it. Against this decision no appeal may be made without waiting for the sentence to be rendered. In this case discussion shall stop.

304. In making a sentence of punishment in Court the reasons thereof according to facts and law shall be assigned, and all the evidence shall be given. When a sentence to release upon a charge is rendered the same rule must be observed.

305. When a person is declared innocent it must be stated as a reason that there is no evidence that the

defendant committed the crime.

306. In the court the sentence, on a private complaint shall be rendered at the same time as the decision of the official complaint. When however investigation is not complete it may be rendered after the official decision.

307. When a defendant is sentenced to undergo punishment, he may by the authority of the court be sentenced to secure the whole or a part of the expenses of the official trial. In case the charge is dismissed, or the defendant declared innocent the costs of the Government trial shall be assumed by Government. The costs of a private prosecution shall be assumed, according to the civil code by the person who brought forward the complaint.

308. When a defendant is sentenced to endure punishment or when he is discharged, articles siezed, which are not forfeited by law shall be returned to the owner with or without his request.

309. During the time in which an appeal may be made, or when it is made, until it is decided the execution of the sentence shall be suspended.

310. When a person sentenced to endure a punishment as heavy as Confinement or heavier has escaped, an appeal cannot be made.

until he is actually arrested.

11. When a confined person makes an appeal or asks for bail he shall make his statement in writing to the chief jailer who shall forward it to the clerk of the court.

12. When a participant in a complaint or his attorney through any unusual event or calamity fails to make an appeal within the prescribed time he shall prove the fact, and may then have his lost privilege restored. But after the event or calamity is past he shall, within the usual time, add his evidence to his statement, and so make his appeal.

13. The clerk shall speedily forward the above statement to the respondent, and the respondent may forward his reponder within three days.

In a court fit to decide an appeal, the opinion of the Kenji shall be obtained by the Board of Consultation, & the question of entertaining or not entertaining the appeal shall first be decided.

When it is determined that an appeal should be entertained the clerk shall be caused to give notice of the fact to the participants in the case and the trial shall proceed according to the usual rules. When it is determined that an appeal should not be entertained, execution

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shall follow at once unless some reason for delay is found.

314 Judicial sentence shall be rendered at once in the open court, after the discussion is ended, or the next day.

The judicial officer shall make out the written sentence before it is rendered and sign and seal it together with the clerk. In the written sentence, the name of the court that renders sentence, the year, month, day & the name of the Kuge's who conducted the trial shall be given.

315. Participants in the charge may obtain at their own expense, copies or extracts of the written sentence of the court. When they do so for the purpose of making an appeal, the clerk shall forward what they request within twenty four hours.

316. When a present offender is tried and sentenced to endure punishment the chief of court shall inform the person sentenced that he may make the fore-mentioned request & that he may appeal against the sentence and in what time he may make his appeal. When an absent offender is tried and sentenced the fact that objection can be made and the time in which it can be made shall be written in the sentence.

When the above information is not given the time for making an appeal shall be prolonged according to the usual rules, after such information is given.

317 The clerk shall make out a special account

of each case in which he shall state all the steps of the case, and also the following facts.

1. The fact that the trial was public; or that persons were excluded, and if so, for what reason.

2. The interrogation and replies of the defendant.

3. The statements of witnesses & experts, and the fact that oath was taken, or when not taken, the reason for the omission.

4. Articles furnished in proof by the plaintiff & defendant.

5. That in the the course of the argument dissent was expressed or threatened; the opinion of the Kenji & participants in the accusation on the several subjects and the decisions of the court.

6. The order of the pleading, and the fact that the defendant was caused to speak last.

318. In the account of the trial, besides the points above mentioned, the name of the court in which sentence was rendered, the year, month & day, the names of the Chief Court, the associate judges, the Kenji and the clerk shall be given. When the pleading lasts several days this fact shall be stated, and also that the same Chief Court presided. When in the course of the pleading provisional judges are made to act, this fact shall be stated; as also in the case of the Kenji & Clerk.

317. The account of the trial shall be made out within three days after the sentence of the court is rendered, and shall be signed and sealed by the Chief of Court and the Clerk. The Chief of Court shall examine the account before it is signed. If he has an opinion to express he shall state it in the margin.

320. The sentence of the court and the account of the trial shall be kept on file in the Clerk's Burrau When an appeal is made the chief of the Court & Clerk shall affix their private seals to copies of the sentence of the court & account of trial and enclose them with the documents to be used in the trial of the case appealed.

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Chap. II. Public Trial of cases of the Infraction of Police Regulations.

321. In a Police Court public or Official complaints may be received in the following cases:

1. In case of a summons issued against a defendant from the Clerk's Burrau at the request of the Fenji.

2. In case of a sentence of a judge in charge of a preliminary examination, or of a higher court to transfer a case.

322. In a summons, the name business and residence of the person to be summoned, the day of appearance at court, the accusation, and the fact that he may have an attorney go to court for him shall be stated. In case the accusation is undstated the defendant who has not yet called his witnesses may ask in the court for two days delay after he has received notice in order that he may call witnesses or counsel.

323. A delay of at least two days must be allowed between issuing the summons & the appearance in court.

324. The judicial officer of a Police Court when haste requires may take steps to seek evidence without the intervention of the respondent, at the request of the Kuyi, or other participants in the suit, or by his own authority before beginning the trial.

325. Witnesses when called must be allowed at least twenty four hours delay between the issue of the call and their appearance in court. If any one who comes into court without being summoned forwards his name to the clerk before examination, he may be heard as a witness.

326. The clerk in each case to be tried shall call out the names of the participants in the complaint. If they do not respond to the call, their case can

not be tried till after the trial of the next case.

327. The judicial officer of the Police Court shall first of all ask the name, age, rank, business, residence, and birth-place of the defendant. When there are notes of examinations and statements written out by officials the Clerk shall read them. The Kenji shall state the accusation.

328. The judicial officer of the Police Court shall ask the defendant if he acknowledges the truth of the accusation or not. If the defendant makes confession through his attorney he shall forward a document to that effect signed and sealed.

329. When the defendant makes confession no other testimony is needed; but the court may at the request of the Kenji or the civil plaintiff or by its official authority cause it to be given. If there is no confession the witnesses for the defendant and plaintiff shall be examined and other evidence given.

330. The Kenji shall give his opinion as to the applicability of the law. The civil plaintiff shall prove the matter charged & state his opinion respecting compensation.

The defendant, civil securities or their attorney shall make reply.

31. When a defendant who has received a summons, civil security, or their attorney does not appear in court, the wishes of the Kenji and civil plaintiff shall be consulted and the case tried in their absence. The same shall be done when the civil plaintiff does not appear.

32. The sentence rendered when parties to a trial are absent shall be sent to the absent parties or to their residences at the request of the Kenji or participants in the suit. When a person who has received a sentence in his absence intends to object thereto he shall forward a statement to that effect within three days after receipt of sentence.

33. The question whether an objection shall be entertained or not shall first be decided in the court. When it is decided that it shall be entertained the clerk shall issue a summons in order to inform the respondent of the objection of the fact that an objection has been raised, and of the time when it will be subjected to public trial. Two days delay at least must be allowed between the issue of the summons and the appearance in court. The time when the matter will be submitted to trial shall be made known to the person who raised the objection, the day before trial.

34. In case an objection is entertained, the case shall be re-tried according to Arts. 326-330 inclusive.

A person absent from this trial cannot raise an objection.

335. When the proof of crime is not full the court shall issue a sentence of innocence. Also in the third and following cases mentioned in Art. 224, it shall order the charge to be dismissed.

336. When the matter charged is an infraction of Police Regulations and when the proof is full a sentence to slight punishment according to law shall be rendered.

337. When the matter charged is a Graver Sight Crime, the court shall issue sentence of want of jurisdiction and hand the case over to a Kenji of a Court for Sight Crimes; and the court may issue a writ of detention against the defendant.

338. Appeals may be taken to a court for Sight Crimes against the sentence of a Police Court in the following cases:

1. When the defendant has received a sentence to be punished with detention.

2. When the amount of compensation due by sentence to the civil plaintiff, defendant or sureties exceeds the amount granted by the final trial in a court for Maintaining the Peace in civil matters.

3. The Kenji and participants in the suit

even in the absence of the forementioned reasons may appeal when the court has not jurisdiction, exceeds its authority mistakes the law, or violates a rule which declares an act void.

239. A person intending to make an appeal shall forward his statement to the Clerk's Bureau of the original court. The period within which this statement may be made is three days from the time of sentence rendered when a present person is tried: and when an absent person is tried, within five days from the time of sending the written sentence to him or to his residence. When there is notice of an appeal the clerk shall inform the respondent of the fact.

240. All the documents relating to the complaint shall be forwarded by the Kuoji to the Clerk's Bureau of the court which is to receive the appeal If the Kuoji happens to be the mover of the appeal or the respondent he shall forward his opinion in writing to the Kuoji of the court that is to receive the appeal.

241. In the court that is to receive the appeal the trial shall begin after summons to the parties concerned in the accusation has been issued from the Clerk's Bureau. At least two days delay between the issue of the summons & the appearance in court shall be allowed. Witnesses shall be allowed at least one days time

between the issuing of the summons & appearance in court.

342. The respondent to an appeal may at any time till sentence is rendered make an additional appeal. This may be announced at once in the open court.

343. A matter relating to an appeal shall be determined according to the rules laid down for the trial and decision of Light Crimes. The Kungi & other parties concerned in the complaint cannot summon a new witness or a witness who has testified in the first trial without first obtaining the consent of the chief judicial officer.

344 The court that entertains an appeal shall render sentence to approve the sentence of the original court or it shall set this aside and issue a new sentence.

When the defendant alone makes an appeal a sentence to inflict a graver punishment than that ordered by the sentence of the original court cannot be rendered.

The trial of an appeal on a private complaint shall be conducted according to the rules of the usual civil law.

345. The rules laid down in Arts. 331 and onward are applicable when in an appeal case a party is absent from the trial.

346. The Kungi and other participants in the complaint may appeal against the final sentence in a

cases of violation of Police Regulations conducted in the presence of the parties.

Chap. III. Public Trial of Light Crimes.

347. In a Court for Light Crimes complaints may be entertained in the following cases:

1. Of summons issued against a defendant by the clerk at the request of the King.

2. Of sentence to transfer the case according to the decision of a judge charged with making preliminary examination, of a Bureau of Consultation in a Court for Light Crimes or of a Superior Court.

348. Arts. 322-323 are applicable in case of summons being issued.

349. When the accusation implies the imposition of a fine the fact that an attorney may appear in court for the defendant shall be stated in the summons. A civil plaintiff and Security may cause an attorney to appear in court in their stead.

350. A witness shall be allowed at least one day's time in which to appear at court after the issue of his summons.

351. Art. 324 is applicable in the case of Light Crime that has not received preliminary Examination.

352. The Kenji shall state the accusation after the chief judicial officer has enquired the name age, business, residence and birth-place of the defendant. The civil plaintiff shall prove the fact of his receiving injury. When there are rules of examination and written statements the clerk shall be caused to read them aloud. Next the witnesses for the plaintiff and defendant shall be heard. Also Articles in evidence shall be shown to the defendant who shall make his explanations

The defendant and civil securities shall make their counter-explanations.

353. The Kenji shall give his opinion as to the applicability of the law.

The civil plaintiff shall give his opinion as to compensation.

The defendant and civil securities may make replies.

354. A defendant deserving to be punished with a fine, also a defendant who according to Art. 269, may be judged, being absent shall be so judged if they do not appear in court at the time fixed in the summons.

355. Arts. 331-333 inclusive relating to the trial of absent parties are also applicable

in the cases mentioned in this chapter.

56. A defendant who has been sentenced to imprisonment, in his absence, may, with the exception of the following cases make objections till the expiration of the punishment according to the Statute of Limitations:

1. When the defendant has stated that the matter should be tried before its actual trial.

2. When a copy of the sentence has been forwarded to him personally.

3. When the defendant is proved to have known that a sentence of punishment would result from the execution of the first sentence.

In the first case above he may make objection within three days after receiving the sentence; in the other two he may object within three days after hearing about the sentence being issued.

57. When the court deems it necessary in order to discover facts, it may, at the request of the Kuyi or participants in the charge, or by its own official authority call new witnesses, appoint experts, or search for evidence. In taking the above steps the rules laid down in Chap. III. Book III shall be followed. Also in a case that has not undergone preliminary Examination a judge of a preliminary

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court may be caused to investigate certain points indicated and to render a report thereon in writing.

358. When the proof of crime is not full the court shall declare the accused innocent. Also in the cases mentioned in Art. 224 onward, an order shall be issued dismissing the charge. In this case the release of the defendant, if confined, shall be ordered.

359. When the matter charged proves to be an infraction of Police Regulations, final sentence shall be rendered and the defendant released, if confined.

360. When the matter charged proves to be a Grave Crime a sentence of want of jurisdiction shall be rendered if it has not undergone preliminary examination it shall, by order, be forwarded to a judge who conducts such preliminary examinations, and the defendant shall receive a writ of arrest if not yet under arrest. The Clerk shall forward the documents connected with the charge & articles to be used as evidence to the judge who conducts the preliminary examination.

361. When the matter charged has not undergone preliminary examination sentence to submit to the Bureau of Consultation of the Court shall be rendered.

The Bureau of Consultation shall investigate the case according to Arts 253-255 and sentence the

the defendant to be sent to a court having jurisdiction.

362. When a case has been received according to the sentence of the Bureau of Consultation as a light crime, if the court nevertheless regards it as a grave crime it shall without seeking new proof render sentence of want of jurisdiction. The Kenji shall appeal in this case to the Supreme Court to have the jurisdiction determined.

363 In the two foregoing cases, until the matter is decided by the Bureau of Consultation or by the Supreme Court, the court may, at the request of the Kenji, or by its own official authority order the defendant to be confined in the prison of the court. Or it may order a release on bail according to the rules laid down in Art 210 & onward.

364. When the matter charged is a light crime and the evidence sufficient sentence to receive punishment according to law shall be rendered. When the defendant is sentenced to be punished with confinement his release on bail or in charge of others, shall be withdrawn, but he may ask anew for release on bail while prosecuting an appeal.

365. The Kenji and other participants in a complaint may, in the following cases, make an appeal against the sentence of a Court for light crimes.

to an Appelate Court.

1st. The Kenyi may appeal when the accused is declared innocent, released from the charge, or sentenced to be punished; also when what the Kenyi regards as a violation of Police Regulations is declared to be a Light Crime.

2. The dependant may appeal against any sentence of punishment except one for a violation of Police Regulations.

3. The civil-plaintiff, dependant & civil securities may appeal when the sentence respecting compensation for loss exceeds the amount imposed by the final decision of a court authorized to begin proceedings in civil matters.

4. The Kenyi and other participants in the complaint may appeal when there is want of jurisdiction, when authority has been exceeded the law misapplied, or when the sentence is declared null and void by law.

366 An appeal may be made within five days after the sentence is rendered.

One who is sentenced, being absent, may appeal at once, without raising objections, at any time until the expiration of his punishment according to the Statute of Limitations. But in the cases

mentioned Art. 338 he shall appeal in five days.

367. When there is an appeal against a sentence in a case of official complaint, if the defendant is under arrest he shall be handed over to the prison authorities of the appellate court by the Kenji.

368. Articles 339-342 and also Art 344 are applicable to this chapter.

369. When the Kenji of a Court for Light Crimes makes an appeal or when the Head Kenji makes a conjoint appeal, if the matter charged is regarded as a Grave Crime, sentence shall be rendered in the Bureau of Consultation according to Art. 238 to transfer to a Court for Grave Crimes.

370. The rules laid down for trying absent parties and for raising objections in primary courts must be observed in Appellate Courts.

371. The Kenji and other participants in a complaint may report up a case against the trial sentence of a Court for Light Crimes, or of an Appellate Court.

Chap IV. Public Trial of Grave Crimes.

372. Official complaints may be entertained in a Court for Grave Crimes in the following cases:

1. On sentence to transfer the case according to the decision of a judge charged to conduct preliminary examination, or of the Bureau of Consultation in a Court for Light Crimes.

2. On sentence to transfer the case according to the decision of the Superior Court (Kaishumin) or of an Appellate Court.

373 When a sentence to transfer to a Court for Grave Crimes is determined on, a written accusation shall be made out as follows:

When the Court for Grave Crimes is held in an Appellate Court the head Kenji shall make out the written accusation.

When the Court for Grave Crimes is held in a Primary Court the head Kenji shall draw up the accusation or cause a Kenji who can perform the duties of a Kenji in a Court for Grave Crimes to draw it up.

374. The following points shall be stated in the written accusation:

1. An account of the offense charged and the aggravating or extenuating circumstances.

2. Name, age, rank, business & residence of the defendant.

3. Evidence for the defendant & plaintiff collected in the preliminary examination.

4, Name of the crime, the law on the case and an abstract of the sentence to transfer to a Court for Grave Crimes.

375 No other matter or dependant shall be mentioned in the written accusation besides those mentioned in the sentence to transfer the case to a Court for Grave Crimes.

376. In case several disconnected Grave-Crimes are charged against one and the same dependant in the Sentence to transfer the case to a Court for Grave Crimes, the Kenji may draw up an accusation for each crime, and afterwards he may ask the Chief of Court that they be argued separately.

The Chief of the Court may in the above case by his official authority cause that the several crimes mentioned in the one accusation be considered separately; or he may cause the matters mentioned in the several accusations to be discussed at the same time.

377 The Clerk shall forward a copy of the accusation to the dependant at least five days before his appearance in court. When there are several dependants a copy of the accusation shall be forwarded to each one.

378. The Chief of the Court for Grave Crimes or the

associate judge appointed to perform his duties after twenty four hours from the time of sending the accusation, shall in the presence of the clerk interrogate the defendant regarding the matter charged, and ask him whether he has chosen counsel or not. If he has not chosen counsel the Chief of the Court shall by his official authority choose counsel for him from among the attorneys connected with the court. When the defendant or the attorney does not dissent one attorney may be made to plead for several defendants. Pleading shall not begin till after three days from the time when the counsel was chosen.

379. When the counsel is hindered from acting or when sufficient reason for changing him is given by the defendant, if the defendant does not chose his own counsel he, shall be chosen by the Chief of the Court according to the foregoing rule. When a counsel is chosen anew the pleading shall stop for three days.

380. The clerk in the case mentioned in Art. 378 shall draw up an account of the examination, and shall note that the due form was followed in appointing the counsel.

When in the course of the pleading the counsel has been changed and the pleading stopped the clerk shall record this fact in his account of the trial.

81. When the discussion of the case is carried on without counsel, the sentence to inflict punishment shall be void. The defendant cannot dissent even though the rules from Art 377 to 379 are violated, if this does not take place before pleading begins.

82. The counsel may meet with the defendant after the steps mentioned Art. 378 have been taken. He may also read and copy all the documents in the Clerks' Bureau on the complaint. No other person however may see the defendant from the time of transferring the case to a Court for Grave Crimes until sentence is rendered. Exception however is here made in the case of any one who receives permission from the Chief of the Court located in the place where the defendant is confined.

83. A list of the names of the witnesses summoned at the request of the King's or civil plaintiff shall be sent in to the defendant one day before the opening of court. A list of the names of witnesses called at the request of the defendant shall be forwarded by the clerk at the same time

to the Kenji and a list of the names of witnesses called in a civil case shall be sent to the civil plaintiff.

384. The testimony of a witness whose name has not been made known beforehand according to the foregoing rules cannot be heard, except for the purpose of ascertaining facts, unless the respondent does not dissent from his being heard as a witness.

385. Witness must be allowed at least two days delay between the time of forwarding the summons and their appearance in court.

386. The Chief of the Court on the day for opening the court shall declare the court to be open before the associate judges and Kenji. But the defendant shall not be called.

387. If the Chief of Court thinks the discussion will last two days or more, he may chose one of the judges of the court where the Court for Grave Crimes is held, to be a provisional associate judge.

388. When the Chief of Court the Kenji and the clerk are each in their places they shall at once commence the examination & pleading.

The Chief of Court shall first ask the name, age, rank, business, residence, birth-place of the defendant

If the defendants replies differ from those given in preliminary examination, still if he is the defendant described in the accusation the pleading shall go on.

389. The clerk shall call out the names of the witnesses summoned. A witness who answers the call shall be made to return into the waiting room, and shall be called in in his turn to give testimony.

390. The Chief of Court shall charge the defendant to listen attentively when he makes the clerk read aloud the accusation.

391. The Chief of the Court shall interrogate the defendant after the clerk has finished reading the accusation. When the defendant denies the facts exposed by him in preliminary examination, or wishes to withdraw them he shall be made to state the reason.

Though the defendant has made confession he must still be examined.

392. When the Chief of Court has ended his examination he shall inform the defendant that he may make explanations concerning the evidence as it is given, and that he may present counter evidence in his own favor.

393. The Chief of the Court whenever a witness for the prosecution has ended his testimony shall ask the defendant whether he has an opinion to give or not.

394. After a witness has testified he shall be detained in the reception room unless he has the permission of the Chief of the Court to withdraw. The associate judge Kenji, defendant, & civil-plaintiff may ask a witness to be re-examined or to be made to confront another witness. The Chief of the Court may do the same by his own official authority.

395. When the Chief of Court thinks that from fear or favor a witness cannot testify fully in the presence of the defendant, at the request of the Kenji or civil plaintiff, or by his own official authority, he may make the defendant withdraw while the witness gives his testimony. After the witness has testified the Chief of Court shall again call the defendant into the court and tell him what the witness said, and shall make the defendant state his opinion if he has one to give.

396. After the steps laid down in Art. 394.

have been taken the Chief of the Court shall declare the argument for the prosecution ended.

397. The Kenji and defendant may request preliminary examination on a matter brought to light during trial. When this request is granted by the court a judge of the court in which the Court for Grave Crimes is held shall be appointed to make the examination & report. In this case paragraph 1st of Art. 337 is applicable.

398. When the discussion is declared to be ended the Kenji shall State his opinion on the applicability of the law.

The defendant and his counsel may argue that the Kenji is mistaken in his opinion.

399. After the forementioned pleading is ended the civil plaintiff shall state what he desires respecting a private complaint. The defendant the counsel or civil security may respond to the above.

The Kenji shall State his opinion on the private complaint. The discussion of a private complaint may be post-poned by the court. This shall be decided however before court is closed.

400. If the matter charged proves to be a Grave Crime, and if the proof is sufficient sentence of punishment according to the law shall be rendered. In the 3d & following cases mentioned in Art 224, the charge shall be dismissed & the defendant released.

401. When the proof of crime is not sufficient the defendant shall by sentence be declared innocent, and shall be released. Also in the matter of damages sentence shall be rendered according to Art 399.

402. When in the course of the trial another distinct Grave or Light Crime not mentioned in the accusation is discovered, a judge connected with the court in which the Court for Grave Crimes is held shall make preliminary examination, after which the matter shall be considered along with the original charge during the present or following session.

403. The Kenji & other participants in a suit may appeal to the Supreme Court from the sentence of the Court for Grave Crimes rendered against a present defendant.

404. In judging an absent party the Chief of the Court shall cause the clerk to read aloud the accusation and other necessary documents connected with the preliminary examination and shall hear the statements of the witnesses on both sides.

The Kenji shall give his opinion as to the applicability of the law, and the civil plaintiff shall give his opinion as to damages. The Civil Securities may reply to the above.

405. Sentence rendered against an absent party shall at the request of the Kenji or other participants

be sent to the party sentenced, or to his residence.

406. Against a sentence to inflict punishment issued against a party tried when absent, no one except the Attorney can appeal to the Supreme Court.

The civil plaintiff and civil securities may appeal to the Supreme Court against a sentence in a private complaint.

407 An absent party who has received sentence to undergo punishment may Object at any time until the expiration of his punishment according to the Statute of Limitations. But when arrested he must Object within ten days.

408 The notice of an Objection shall be given in the Court for Grave Crimes that tried the absentee. The question whether the objection shall be received or not shall be first decided in the Court for Grave Crimes. When it is decided that the objection should be received it shall be tried anew according to the usual rules, in the present or next session.

409 After a Court for Grave Crimes that has tried an absentee is closed the statement of an objection shall be made in the Appellate Court having jurisdiction in the given place; and when it is decided to receive it in such Court it shall be declared, by sentence, a subject to be tried anew.

by a Court for Grave Crimes accor-
ding to the usual rules

Book V. Duties of the Tai-Shin-in,
or Supreme Court.

Chapter I. Appeals.

410. Appeals may be made against the sen-
tence rendered after preliminary Examination or
public trial by the Kenji or defendant in the
following cases:

1. When a statement that a judge should be ousted is
rejected contrary to law.

2. When the fundamental rules of the court are violated

3. When a sentence of want of jurisdiction or claim to
jurisdiction is wrongfully rendered, or when by sentence
the case is removed to a court that has not jurisdiction.

4. When, in the Code an Article that states a thing
is void is disregarded, or when a statement of dissent
on account of the violation of an Art. that
declares an act is valid is not accepted.

5. When an official accusation is received
or rejected contrary to the law.

6. When in cases laid down in the law
the opinion of the Kenji is not heard.

7. When a matter respecting which a re-

quest for decision is made is not decided by the court, or when, excepting points to be decided by official authority, any matter is decided without receiving a request for its decision.

8. When sentence is not rendered in Open court or when the examination and pleading has been in private without first issuing an order to exclude listeners.

9. When the reasons for the sentence according to the facts and the law are not assigned or when the reasons assigned are contradictory.

10. When there is a mistake in determining the law.

11. When, in any steps, the judge has exceeded his authority.

411. When the rules laid down for the benefit of the defendant are violated, in rendering a sentence to dismiss a charge, or to declare the accused innocent or when there is difference of jurisdiction consequent on the place of the crime, no appeal can be made.

412. The civil-plaintiff, defendant, and civil securities may appeal for the reasons assigned in Art. 410. against the sentence rendered after preliminary examination or public trial of a private complaint.

413. The respondent in an appeal may make a

compel an appeal at any time till the decision of the Saishin-in, or Supreme Court is rendered. The chief Kenji of the Supreme Court also may make such an appeal.

414. An appeal is to be made in three days; in the case of the preliminary examination, counting from the time of forwarding the sentence and in the case of the public trial counting from the time of the sentence.

415. When an appeal is taken against the sentence rendered in preliminary examination or in public trial, with the exception of a sentence to confine, to release on bail, to deliver in charge, or to acquit and release, execution shall be stopped.

416. A person who intends to appeal shall forward his written notice to the Clerk's Bureau of the original court. This written notice shall be forwarded by the clerk to the respondent in twenty four hours.

417. The person who gives notice of an appeal shall, within five days, forward to the clerk of the original court a statement in writing setting forth his intention. The clerk shall forward this statement also to the respondent in twenty four hours after its reception.

418. The respondent shall send in his reply to the clerk of the original court within five days after receiving the written statement setting forth the aim of the appeal; and the clerk shall send this reply within twenty four hours to the person who gave notice of an appeal.

419. The written statement of the aim of the appeal to be forwarded by the Kenji & the reply thereto shall be made out in duplicate and one copy forwarded to the Supreme Court and one to the respondent: the same must be the case when the like documents are made out by the participants in a suit against the sentence in a private complaint.

420. The clerk after the expiration of the time named in the foregoing articles shall speedily forward the documents in the complaint & the appeal to the Kenji of the court; and the Kenji shall forward them within five days to the head Kenji of the Supreme Court. Also when he has an opinion to express he shall add it. The head Kenji shall ask the Chief of the Supreme Court to enter the matter appealed in the register of the Bureau of Criminal Cases.

421. The person who gives notice of an appeal and the respondent may send an attorney.

When a person sentenced to receive the punishment

due a grave crime makes an appeal, or when the appeal is made by the Kenji as a crime deserving such punishment if the person sentenced to receive punishment does not choose an attorney the Chief of the Supreme Court shall by his official authority, appoint one of the attorneys connected with his court to act.

422. The Chief of the Supreme Court shall appoint one of the judges in the Bureau of Criminal Cases to act as special judge. The special judge shall examine all the documents & make out a written report; but shall not add his opinion

423. The person who gave notice of appeal and the respondent, may, until the report of the Special judge is sent in, through the Clerks' Bureau of the Supreme Court, send in written explanations to further their aims. When a written explanation is sent in after the Special judge has made his report, it shall be added to said report.

424. The clerk shall give notice of the time when the court will be opened to the person who gave notice of the appeal & to the respondent three days before such opening.

425. On the day of opening court the Special judge shall read aloud his report in the court.

The head Kenji and the attorney shall each explain their objects. In the case of a private complaint the head Kenji shall last of all state his views.

426 When an attorney is not sent by the person who gave notice of appeal or by the respondent, decision shall be rendered at once.

427 When the Supreme Court thinks there is no reason for making the appeal ~~it shall~~ it shall render sentence to reject it.

428. When the Supreme Court thinks there is reason for setting aside the decision of the preliminary ~~court or public trial it shall set aside~~ the whole sentence, and order the case to be transferred to another court. The cases mentioned heretofore are excepted.

429. When the sentence of the original court is set aside on account of a mistake in the meaning of the law, or of a violation of the law, or on account of receiving or not receiving an official complaint, the Supreme Court shall render sentence at once without transferring the case.

430. Though the method of procedure in the preliminary examination or public trial be irregular, if no injury has resulted, or if no future legal

steps in the trial have been hindred thereby, the case shall not be transferred to another court. The irregular steps or method of procedure only shall be set-aside.

431. When the appeal is against a part only of the sentence of an inferior court, & when the other part is not affected, the Supreme Court shall set-aside the part affected by the appeal and at once render just sentence according to the law, or transfer the case to another court.

432. When the Supreme Court sets-aside an original sentence, and at once issues a new sentence, it shall make the original court or some other court execute it.

433. When the Supreme Court must transfer a case to another court, it shall designate a court of the same rank in the vicinity of the original court. A purely civil complaint shall be transferred to a civil court.

434. A decision of the "Tai-shin-in" or Supreme Court respecting the law is final. An appeal may be made against a decision of a court that has received a case from the Supreme Court, which appeal must be made according to the usual rules.

435. In case an act is punished by sentence that is not punishable by law, or in case a heavier punishment than is due is inflicted if the sentence becomes conclusive because of there being no one to make an appeal in the given time, the head Kenji of the Supreme Court may at any time, by order of the Minister of justice, or by his own official authority make an extraordinary appeal. When an extraordinary appeal is made the sentence of the original court shall be set aside and sentence rendered straightway by the Supreme Court.

436. In the following cases the head Kenji and other participants in a complaint may remonstrate against the sentence of the Supreme Court, in said court:

1. When the Supreme Court fails to observe the forms laid down in the foregoing Articles.

2. When it does not render a decision on a matter brought to its notice by a participant in the complaint.

3. When two points in one and the same sentence are contradictory.

437. A person intending to make a remonstrance shall give notice in the Clerk's Bureau.

within three days after the sentence. The Clerk shall within three days after receipt of notice, forward it to the respondent & the respondent shall send in his reply within the same time.

The Supreme Court shall decide concerning a remonstrance according to the usual rules for an appeal.

438. The Execution of the sentence of the Supreme Court shall be suspended for three days from the time when it was rendered, or when there is a remonstrance until its decision.

Chapter VII Claim for Re-examination

439. A claim for re-examination may be made for the benefit of the defendant against a sentence inflicting the punishment due a Grave Crime, but not before the case is conclusively settled.

The above claim may be made in the following cases:

1. When after sentence to punish for murder the person who was regarded as killed at the time of the sentence is found to be alive; or when it is proved that he was already dead before the crime was committed.

2. When there is a person to an accu-

plice who has received punishment expressly for the one crime in hand.

3. When by a document officially vouched for made before the commission of the crime it is clearly proved that the accused was elsewhere at the time.

4. When there is a person who has received sentence for the crime.

5. When by authenticated official documents it can be shown that the papers containing the accusation were forged or erroneous.

The persons who may claim a re-examination are the following:

1. The Kenji of the court that ordered the sentence to punish the accused.

2. The head Kenji of the Appellate Court that has jurisdiction over the court that issued sentence to inflict punishment.

3. The head Kenji of the Supreme Court. He shall make the claim according to the order of the Minister of justice, or by his own official authority.

4. The person sentenced to be punished: or

5. The relations of the person sentenced, after his death.

441. A claim for a re-examination may be made at any time without regard to the expiration of the punishment.

442. The person who intends to make a claim for a re-hearing, shall add a copy of the original sentence & the documents in evidence to the written declaration of his claim, and forward the whole to the Clerk's Bureau of the original court.

The Kenji of the original court shall add his written opinion to the documents & forward the whole to the head Kenji of the Supreme Court.

When the Kenji of the original court is the head Kenji of the Appellate Court themselves intend to make a claim for re-hearing they shall forward the documents in the manner above indicated.

443 The Supreme Court at the request of the head Kenji shall cause a special judge to make an examination of the documents and report.

444 The Supreme Court shall lay aside other matters and all the judges in the Bureau of Criminal Cases shall meet in the Bureau of Consultation and decide the case according to the report of the special judge & the opinion of the head Kenji.

445. When the Supreme Court concludes that there are reasons for a re-examination it shall

set-aside the original sentence & render sentence that the official and private complaint be re-examined, and transfer the case to another court of the same rank as the original court.

446. In case a claim for re-examination is made by the relatives of a dead person, if the Supreme Court concludes that there are reasons for a re-examination it shall set aside the original sentence without transferring the case to another court.

447. When a person is declared innocent according to the finding of the re-examination, or when a sentence to set-aside a preceding sentence is rendered, as above stated, the sentence shall be exhibited in public or proclaimed officially in order to restore the person's reputation.

Chap. III. Claim to have the jurisdiction Determined.

448. When an ordinary or special court considers sentence that jurisdiction is wanting & this sentence is confirmed, or when, on account of objections to a judge, or on account of some unusual event, jurisdiction over the matter complained of is wanting, the Kuni and other participants in the suit may make complaint to have the jurisdiction determined.

The head Kenji of the Supreme Court by order of the Minister of justice or by his own official authority may make the above claim.

449. A person intending to make a claim to have jurisdiction determined shall add the documents containing the complaint to the written declaration of his purpose, and forward the whole to the Clerk's Bureau of the Supreme Court.

450. In the Supreme Court five or more judges in the Bureau of Criminal Cases shall meet in the Bureau of Consultation and decide the claim to have the jurisdiction determined according to the special judge's report and the written opinion of the head Kenji, & shall definitely indicate the court that shall have jurisdiction in the case.

Chap. XV. Claim to have jurisdiction removed on account of Apprehended Danger or for Public Peace.

451. When on account of the nature of a crime, the rank & number of the defendants, the character of the people of a place, or on account of other important considerations there is fear that disorder or danger will result in the trial, the case may be removed to another court of the same rank

for the sake of preserving the peace.

52. A claim for removal of jurisdiction for the sake of the public peace shall be made by the Iraid Kenji of the Superior Court, in that court by order of the Minister of Justice.

53. The matter shall be decided at once in the Bureau of Consultation of the Supreme Court without hearing the statements of the participants in the suit.

54. When on account of the character of the defendants the disposition of the people of a place, or the character of the complaint it is feared that order cannot be preserved in court the case may be removed to another court of the same rank on account of this apprehension.

55. A claim to remove the jurisdiction on account of the above apprehension may be made by the Kenji of the court having jurisdiction or by other participants in the complaint.

When a civil plaintiff makes a private complaint in a court where evil is apprehended, and decision takes place in the case without the defendants giving notice of dissent, claim for removal of jurisdiction cannot be made.

56. In making the forementioned claim to remove jurisdiction two copies of the declaration

of purpose shall be forwarded to the Clerk's Bureau of the original court. The clerk shall speedily forward one copy to the respondent who may send in his rejoinder within three days thereof.

457. The Supreme Court shall decide the claim according to Art. 450.

458. When there is a claim to remove jurisdiction as above, proceedings in court shall be stopped.

Book VII. Execution, Restitution of Rights, & Special Release.

Chapter I. Execution.

459. Execution of the penalty of a Grave or Light Crime or Infraction of Police Regulations shall not take place till after the close of the trial.

460. When sentence inflicting the death penalty is rendered the documents in the case shall be forwarded at once by the Kenji to the Minister of justice. When there is an order from the Minister of justice to execute the death penalty it shall be done within three days.

461. Except in the case of the death penalty when a sentence to inflict punishment is concluded, it shall be executed at once.

462. The execution of a sentence to inflict punishment

shall be carried out according to the directions of the Kenji of the original court, or of the Kenji of the court that has received an order from the Supreme Court. Fines, costs of court and forfeits shall be paid in according to the written order of the Kenji; who shall also dispose of forfeited articles that are liable to decay or to be thrown away.

63. The clerk shall make out an account of the execution of the death-penalty, and sign and seal it along with the witnessing official, according to the rules for the execution of such sentences.

Other rules and by-laws relating to the execution of penal-sentences shall be fixed by special regulation.

64. When a sentence is determined, or when an absent person is tried the clerk of the court that renders sentence shall write an account of the crime tried in the court in which the following points shall be noted: (When sentence is rendered in the Supreme Court this account shall be made out by the clerk of the court charged with the execution.)

1. Name, age, business, residence & birth-place of the offender.
2. The names of the crime & the punishment.
3. Repetition of the crime.

4. The day, month and year of the sentence.
5. That the accused was personally present at or absent from the trial.

445. Two copies of the account of the crime tried shall be made out, and one copy shall be sent to the Minister of justice and one copy kept on file in the Clerks' Bureau of the court. One copy of said account shall be made out in the case of an Inspaction of Police Regulations & it shall be kept on file in the Clerks' Bureau.

446. When a person sentenced to undergo punishment Expresses a doubt about an article of the sentence or when he expresses dissent respecting the execution, the matter shall be decided in the court that rendered Sentence.

447. When a sentenced person escapes and is afterwards arrested, if the question of identity arises he shall be sent to the court where his crime was tried in order to have the question settled. When he cannot be identified by the court as the original offender, the judicial Officers King, Clerk and witnesses on both sides concerned in the original case may be summoned in order to consider the facts in the case.

469 "3" For the cases mentioned in the two foregoing Articles the statement of the person sentenced and the opinion of the Kenji shall be heard in the court, and sentence thereupon rendered. Against this sentence there can be no appeal.

The execution of a sentence respecting compensation and costs of court payable to parties concerned in the complaint shall be according, to the usual rules for civil matters.

Chap. II. Restoration of Civil Rights.

Petition to restore Civil Rights shall be made to the Minister of justice by the person sentenced after the expiration of the time fixed in Art. 63 of the "Penal Code." This petition shall be signed and sealed and forwarded to the acting Kenji of the primary court of the place where the petitioner resides.

The following documents must be added to the petition for the restoration of rights:

1. Copy of the sentence of the court.

2. Documents proving that the time of the punishment is up, or that special release has been granted, or that the punishment is ended according to the Statute of Limitations.

3. Proof of temporary release from prison or from surveillance.

4. Proof that compensation and costs of suit have been paid or remitted.

5. Documents showing the petitioner's past and present residence and means of obtaining a livelihood.

472. The Kenji shall examine as to the character of the petitioner and other essential matters and add his opinion to the forementioned documents and forward the whole to the Head Kenji of the Appellate Court.

473. The Head Kenji shall make needful examination, add his opinion to the documents relating to the petition for the restoration of rights and forward the whole to the Minister of Justice.

474. The Minister of Justice shall examine the documents relating to the petition and if he thinks it should be granted he shall speedily represent the case to the Emperor.

475. When a petition for the restoration of civil rights is rejected by his Majesty or according to the opinion of the Minister of Justice the latter shall inform the Kenji of the Appellate Court, who in turn shall inform the

Kenji of the primary court that issued the petition. In this case the petition cannot be renewed unless after the expiration of half the time mentioned in Art 63 of the "Criminal Code". When a petition is presented anew, the foregoing rules must be observed.

76 When there is a favorable decision on the subject of restoring the rights petitioned for, the Minister of Justice shall forward this favorable decision in writing to the head Kenji of the Appellate Court who in turn shall forward it to the primary court that issued the petition. The Kenji shall furnish the petitioner with a copy of said writing.

Chapter III Special Pardon.

77 At any time after a sentence to inflict punishment has been determined on, the Kenji or head jailer may represent the conduct of the offender to the Minister of Justice in order to his Special pardon. When the head jailer represents the matter he shall do so through the Kenji who shall add his opinion. When there is such an application for Special pardon the Minister of justice shall add his written opinion to the other documents and forward all to His Majesty the Emperor.

78 The Minister of justice may apply for a Special pardon at any time after sentence has

been decided on.

With the exception of the death penalty, the execution of no penalty can be stopped by an application for special pardon.

479 " When an application for a special pardon is rejected the fact shall be made known to the Kenji of the court that issued sentence, by the Minister of Justice.

483 " When an application for a special pardon is granted the Minister of Justice shall forward a copy of the pardon to the Kenji of the court that issued sentence according to the rule laid down in Article 476.

End "

File

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No 1267.

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United States Legation,
Japan.
Tokei, March 16, 1881.

Mr Bingham
to the
Hon Secretary of State.

Subject.

Mr Bingham has been confidentially informed that Great Britain and France have informed this Gov't. that they will only entertain propositions for a revision of existing treaties and that they regard the proposals of the Japanese Gov't. as substantially involving new treaties.

No 1267

United States Legation,
Japan,
Tokei, March 16, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

Referring to my No 1144 with which I transmitted for your information copies of the new treaties, with observations thereon, proposed by His Imperial Japanese Majesty's Government to the several Foreign Powers for their consideration, I now beg leave to acquaint you that I am confidentially informed that Great Britain and France have rejected the same and notified this Government that they will

will only entertain a proposition for a revision of Existing treaties between Japan and the two Powers named. This, I may say, is a new form of cooperation.

Thus it would seem that Great Britain and France are disposed to persist in Keeping what they have of unjust control over the inherent rights of this Government to regulate its commercial interests, domestic and foreign, by virtue of the Convention of 1866, which, as I have heretofore stated, was forced upon this Government by a demonstration within its waters of the armed war vessels of several European States, and to which our Government became a party under the mistaken impression that the Convention was made

in

in accordance with the expressed wishes and upon the voluntary request of this Government. The fact is beyond dispute that the Convention of 1866 was secured under the guns of several foreign vessels of war and upon the demand of European States from the Shiogun two years before the revolution deposed the Shiogunate and restored the Emperor to his rightful sovereignty in this Empire.

I have the honor to be,

Sir,

Your obedient servant,

Jno A Kingsbury

No 1268

Inclosure of April 22/1881 to Mr Angell (Off. R. H.)

Hawaii

DEPARTMENT OF STATE
APR 14 1881
RECEIVED

United States Legation,

Japan.

Tokei. March 17, 1881.

Mr Bingham

to the

Hon Secretary of State.

Subject.

The visit of the King of Hawaii to Japan. He arrives on the 14th and leaves on the 16th inst. having been entertained by this Govt. in a befitting manner. Some account of his visit to the Church at Yokohama, partly built by contributions from Hawaii.

Enclosure.

1. Mr Bingham to Mr Inouye, Feby 23/81.

2. Extract from the Mail. March 12/81.

No 1268.

United States Legation,
Japan.
Tokei, March 17, 1881.

Hon William M. Evarts,
Secretary of State,
Washington D.C.

Sir:

On the 4th instant His Majesty the King of Hawaii reached Yokohama en route for Eastern Asia, Europe and the United States of America. Having been consulted by Mr Dooyeno, Assistant Japanese Minister for Foreign Affairs, in anticipation of the arrival of the King, as to what action, if any, should be taken by His Imperial Japanese Majesty's Government touching the King's reception, I suggested that His Majesty

Majesty should be received by this Government and entertained in a manner befitting his rank, which, it gives me pleasure to say, was done. The Emperor having directed His Ministers to receive to receive the King and tender to His Majesty lodging and hospitality in the private palace, Enriokuan in Tokei. The King having been conducted thither, on the same day was received in audience by the Emperor and every courtesy was extended to him during His Majesty's stay which terminated on the 16th instant when His Majesty sailed for China. Soon after his arrival I called on His Majesty, who received me cordially and thanked me for my good offices in communicating with this Government on behalf of

of the Hawaiian Government, and
especially for my letter to His
Excellency Mr Inouye (a copy of
which I have the honor to enclose)
in which I transmitted a copy
of the letter from His Hawaiian
Majesty's Minister for Foreign Affairs
to Mr Irwin, the Acting Consul
General of Hawaii in Japan.
His Majesty did me the honor
to call upon me in person with
his suite, and also to invite
me to dine with him at the
Palace, which invitation was
accepted by me.
The Union Christian Church of
Yokohama invited His Majesty
to meet them on the 10th instant,
which was the ninth anniversary
of the organization of the native
Church

Church of Christ in Japan. The
Church building was erected in 1875,
and paid for largely by foreign
contributions, among others One thousand
dollars contributed in 1873 by the
Christian people of Hawaii. This
money having been entrusted to
the Reformed Church in America
for its use, was, with the increase
thereof, applied to the erection of
the edifice in Yokohama above
named. The King upon entering
the building found it filled with
Japanese Christians and their
friends, its walls adorned with
the Japanese and Hawaiian flags,
above which was the word in His
Majesty's own tongue "Aloha", the
Hawaiian expression for "Love
to thee." Upon the entrance
of His Majesty the Japanese Pastor
of

of the Church, the Reverend Okuno Masatsuna, made an address to His Majesty, in which after saying "I extend to Your Majesty a most "cordial welcome," he added "this "house of God in which we meet "owes its erection to the generous "donation of a large sum of money "from the Hawaiian Christians to "build the first native church in "Japan." Herewith I enclose the address of the reverend gentleman to His Majesty and the text of His Majesty's reply, as published in the Japan Weekly Mail of the 12th instant.

His Majesty's visit to this Empire cannot fail, in my opinion, of good results. Those who conversed with His Majesty were I have no doubt impressed, as I was, with his large intelligence

intelligence). It was apparent that His Majesty, to use his own words, seeks "to promote the health of his people."

I have the honor to be,

Sir,

Your obedient servant,

Wm. A. Hinghman

No 1268.

Enclosure 1.

Copy. No 1407 U. S. Legation

Tokei Feb 23rd 1881.

His Excellency Inouye Kaoru

&c &c &c

Sir:—

I beg leave to acquaint Your Excellency that I have been favored by Mr. R. W. Irwin, His Hawaiian Majesty's Acting Consul General at Yokohama, with a communication addressed to him by His Hawaiian Majesty's Minister for Foreign Affairs, a copy of which communication I have the honor to enclose herewith for your information.

Mr Irwin is notified among other things, that His Majesty on the 18th ultimo left his Kingdom for San Francisco, whence he proposed to proceed to Yokohama en route for the East accompanied by

by his Chamberlain Mr. Judd, and also by Mr Armstrong, H. M's Commissioner of Emigration,

Your Excellency will please observe that the Hawaiian Minister for Foreign Affairs, called attention to the fact that His Majesty travels strictly incognito as Mr Kalukawa.

Referring to a conversation which I had recently on this subject with H. E. Mr Hoogeno, I beg leave to say that I then suggested, in reply, that I thought it would be highly proper for His Imperial Japanese Majesty's Government on the arrival of His Majesty the King of Hawaii at Yokohama to extend to His Majesty the courtesies befitting his rank, and this I have no doubt it will be the pleasure of Your Excellency's Government to do.

It is probable that His Majesty the King will arrive

at Yokohama by the "Oceanic"
about the 28th Instant

Accept Sir, the
expressions of my highest regard.

(Signed) John A. Bingham

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Annex. [Enclosure 2. in No 1268]

-Extract from Japan Weekly Mail, March 12/81.]

The Rev. Okuno Masatsuna then read the following address in Japanese, and presented a copy of the Japanese New Testament to His Majesty.

"Your Majesty the King of Hawaii.—On behalf of the members of the first church of Christ in Japan, whose ninth anniversary we celebrate to-day, I extend to Your Majesty a most cordial welcome. We feel greatly honored by Your Majesty's presence on such an occasion, and consider it as a mark of the liberal principles that characterize your Majesty's government and people. History records that Columbus in setting out on his famed voyage of discovery had Cipango and the East Indies in view. He knew not that a great continent of America and Your Majesty's beautiful island empire needed first to feel the life-giving touch of Christian civilization, before they in turn could extend it to our country. We rejoice in the integrity and independence of your empire, your liberal constitutional government, and in your great progress in educational matters. May the thrones of Kamehameha and of Jimmu never be held by others than their lawful descendants. A special duty which rests upon us to-day is this: this house of God in which we meet owes its erection to the generous donation of a large sum of money from the Hawaian Christians to build the first native church in Japan. This money was intrusted to the mission of the Reformed church in America for our use. By the generous gifts of others which were added to this, and the exertions of our first teachers, this church was erected and was dedicated to the worship of God July 10th, 1875, from which time it has been freely used by us. We well know the source of that love which was seen in this gift on the part of Your Majesty's people. It is no other than the love of God which led him to send his only begotten son that whosoever believeth in him should not perish but have everlasting life. And we are glad to avail ourselves of the opportunity afforded by Your Majesty's visit to this Empire to offer, through the august person of Your Majesty to the Christians of Hawaii, our sincere thanks. We have heard of the great success which has attended the preaching of the gospel in your dominion, but the cause of Christianity as yet with us is in its infancy. Yet are we happy to tell Your Majesty of more than seventy churches and 4,000 Christian believers. We hope also the day is not far distant when we in turn shall send our missionaries to other islands and countries to proclaim the glorious gospel of the blessed God. As a trifling token of our high respect for Your Majesty we humbly present Your Majesty a copy of the New Testament in our language and pray that the high degree of liberty and advanced national prosperity which has been the blessing of those nations where this book has had its widest influence be more and more fully enjoyed both by Your Majesty's people and ours."

His Majesty, speaking in excellent English, said in reply:—"It is a source of great pleasure to me, on this occasion, to thank you for the very valuable gift that you have made me this afternoon. I feel very much gratified for this exchange of love, not only between Hawaii and Japan as nations, but also as between the Christians of our country and yours. I shall consider this estimable gift of the church of Japan—of the Christians of Japan—a pleasing memento of my visit and I have no doubt it will be very gratifying to the Christians of my kingdom on my return, for me to be able to show them the valuable present you have made me to-day. The Christian religion is the prevailing religion of my Kingdom, and I hope that the liberal spirit of the Imperial sovereign of Japan, and your labors—the labors of the mission as well as those of the communicants—will conduce to the progress of your work. With these few remarks let me thank the Christians of Japan for their kindness. I only regret that my stay in Japan is not long enough to visit the church more often."

Hymn No. 727 was next sung, in English, and the service terminated with the benediction pronounced by the Rev. Uemura Masahisa.

His Majesty then adjourned to an ante-room where many presentations to him were made, some of those presented being old Hawaiians. His Majesty left shortly after five, and visited the Yokohama Chapter later in the evening, returning to the capital by the 10 p.m. train.

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No. 1269.

Copy of this to Referred to Judge O'Connor C. P.
Attorney Gen'l
April 15. 1881

Ans'd, Off. H. O. C.
April 29. 1881
per Bridle

United States Legation,

Japan,

Tokei, March 17, 1881.

Mr Bingham

to the

Hon. Secretary of State.

Subject.

The case of John M. Ross convicted of murder in the U.S. Consular General Court, Yokohama, and his transfer to the United States under order of the President and his probable application for a discharge on his arrival in the U.S. under a writ of habeas corpus, which application Mr Bingham is of opinion should be resisted.

No 1269.

United States Legation,

Japan,

Tokei, March 17, 1881.

Hon William M. Evarts,

Secretary of State,

Washington, D.C.

Sir:

I beg leave to call your special attention to my despatch No 1261 of the 28th ultimo and also to my several other despatches to the Department therein mentioned in relation to the case of John M. Ross, lately convicted in the United States Consular General Court in Japan of the murder of Robert Kelly, the second mate of the American merchant vessel "Bullion", when in the harbor of Yokohama. On the 2d instant

Ross

Ross sailed for San Francisco on board the "Peking" in charge of Dr Hiram Latham, who carried with him a judicial warrant issued by the Consul General Van Buren (before whom Ross was tried and convicted) commanding that said Ross be delivered by said Dr Latham to the Warden of the Albany Penitentiary in the State of New York, in accordance with the order of the President.

As the questions raised in this case by the British Government and also by the Counsel for Ross are of vital importance to the commercial interests of the United States in both Japan and China, I requested Dr Latham by letter that, in the event of the allowance of the writ of habeas

habeas corpus by any Judge or Court in the United States on the petition of Ross, he should immediately notify the Department of State by telegram, and request instructions to the United States District Attorney in the premises on behalf of the United States.

Without further statement at present of my views in support of the validity of the treaties of the United States and of the Acts of Congress to carry the same into effect, I beg leave to say that now for the first time these treaties and our laws for their enforcement are called into question, twenty years after their enactment by British Agents and British officials

in

in Japan.

Should any United States Judge or District or Circuit Court allow the writ of habeas corpus on the petition of John M. Ross, as the legal power thus to intervene in the premises is not in my opinion vested by our Constitution and laws in the said Courts or the Judges thereof, and as the reversal of the judgment rendered against Ross would be virtually a judicial decision against the validity of our Treaties with Japan, and, if sustained, a substantial destruction of our Commercial right and interests in this Empire, which is the gate to our commerce in all the East, I beg leave

to

to suggest that action be taken by the Department of Justice to prevent, if possible, such adverse ruling from going into effect in any District of the United States until the same shall have been brought into and duly passed upon by the Supreme Court of the United States. Permit me to add that the power of Congress, under the grant of the Constitution Article I, Section 8, Clause 18, to pass laws to carry into effect our treaties with foreign nations, and for that purpose to establish foreign tribunals, judicial in their nature, is in no wise connected with, nor limited by the powers conferred, defined and restricted under Article

III and Amendments 5, 6 and 7 of the Constitution of the United States as shown by the legislative, Executive and judicial precedents cited by me in my former despatches.

I have the honor to be,

Sir,

Your obedient servant,

Wm. A. Bingham

Referred to Mr. Scanlan
C. P.

No. 1270.

made

DEPARTMENT OF STATE
APR 27 1881
RECEIVED

United States Legation,
Tokei, Japan, March 23d 1881.

Mr. Bingham,
to the,
Hon. the Secretary of State.

Subject
Transmitting the Monthly Returns of the Customs of Japan for January 1881.

No. 1270.

United States Legation,

Tokei, Japan, March 23, 1881.

Hon. William M. Evarts,

Secretary of State,

Washington.

Sir:

Herewith I beg leave to enclose for your information duplicate copies of the Monthly Return of His Imperial Majesty's Customs of Japan for the month of January 1881 by which it appears that the export of domestic productions for the month were of value yen two million six hundred and forty one thousand three hundred and seventeen and thirty seven sen. (Y. 2, 641, 317 37/100.) and exceeded the value of foreign productions imported for the same

month to the amount of yen one hundred and three thousand five hundred and twenty, and sixty eight sen. (¥103, 520. $\frac{68}{100}$); and it further appears that the value of specie and bullion imported during the month into Japan was yen, forty thousand six hundred and fifty eight, and twenty three sen, (¥40. 658. $\frac{23}{100}$) and that the export thereof for the month was of the value of yen six hundred and eighty three thousand nine hundred and fifty seven, and seventy eight sen. (¥683. 957 $\frac{78}{100}$).

I have the honor to be, Sir,

Your obedient Servant,

H. A. Bridgman

Referred to Mr. Scudder

No. 1321. Made

United States Legation.

Tokei, Japan. March 23, 1881.

Mr. Brigham.

to

The Hon. the Secretary of State.

Subject.

Forwards duplicate copies of "Return of the Foreign Commerce and Trade of the Empire of Japan for the half year Ended Dec. 31. 1880."

No. 1271.

United States Legation,

Tokei, Japan, March 23d. 1881.

Hon. William M. Evarts,
Secretary of State,
Washington.

Sir:

Herewith I have the honor to enclose duplicate copies of the "Return of the Foreign Commerce and Trade of the Empire of Japan for the Half Year ended December 31st 1880."

1271

You will please observe (p. 37) that the total value of imports of merchandize for the period from all countries amounted to yen eighteen million five hundred thousand. (¥ 18.500.000) in round numbers; and the value of the exports to yen fifteen million six hundred thousand, (¥ 15.600.000)

in round numbers, showing a balance for the six months against Japan to the amount, in round numbers, of yen two million nine hundred thousand, (¥2. 900. 000.)

You will notice that the imports into Japan from Great Britain for the six months were of the value of yen ten million five hundred and thirty three thousand five hundred and thirty three, (¥. 10. 533. 533.^{00}), and the exports from Japan to Great Britain were of the value of yen one million seven hundred and twenty nine thousand six hundred and forty five, (¥. 1. 729. 645.^{00}), showing an excess of imports from Great Britain to the amount of yen eight million Eight hundred and three thousand nine hundred and eighty eight, (¥. 8. 803. 888.^{00}), while the United States imported into Japan for the same period to the amount of yen one million thirty two thousand and seventy five (¥. 1. 032. 075.^{00}) and

received of Japanese exports to the amount of yen seven million five hundred thousand four hundred and seventy nine (Y. 500. 479^{00}) in excess of our imports, yen six million four hundred and sixty eight thousand four hundred and four (Y^{en} 6. 468. 404^{00}) Great Britain sells to Japan five fold more than she buys of Japan, while the United States buys from Japan five fold more than we sell to Japan. The amount of Japanese exports to the United States per the six months, you will note, was in value yen, Seven million five hundred and ninety thousand four hundred and seventy nine (Y. 7. 590. 479^{00}), and in excess of the exports to Great Britain per that period to the sum of yen five

million nine hundred and sixty thou-
sand eight hundred and thirty four. (£.
960. 834 ^{m}); in other words we purchase
of Japan five fold the amount which Great
Britain purchases; and sell less than one
fifth the amount which Great Britain
sells to Japan! It is not surprising
that Great Britain thinks it well that
all things should remain as they are in
Japan, and that no change should be
made in existing Treaties which might
work a result favorable to the produc-
tive industries and to the finances of
this Empire or to the increase of our commerce therewith.

I have the honor to be, Sir,

Your obedient servant,

Jno A Bingham

No. 1272. Ack. made

File

United States Legation,

Tokei Japan

March 25th 1881.

Mr. Bingham.

to

The Hon. the Secretary of State.

Subject

Mr. Bingham calls the attention of the Hon. Secretary of State to the conversation & letter of Mr. E. H. House, published in the "New York World" and the "Brooklyn Eagle," in relation to Japan and the diplomatic action of the Government of the United States with the government of Japan.

Mr. Bingham quotes Mr Houses letter to him of Feb. 1. 1881.

Enclosures.

1. Copy of the conversation of E. H. House

Published in the "New York World" of Feb. 16th 1881.

2d do. Letter of Mr. House to the "Brooklyn Eagle"

of date January 16th 1881.

No. 1272.

United States Legation

Tokei, Japan March 05th 1881

Hon. William M. Evarts,

Secretary of State,

Washington,

Sir:

I have read with surpise a conversation of Mer. E. H. House as reported and published in the "New York World" of the 16th ultimo in relation to Japan and the Diplomatic action of our government with the government thereof.

I herewith enclose a copy of the communication as published in the "World".

1/1274

The editor of the "World" in his notice of this conversation in the same issue, 16th Feb. last, interprets Mer. House as saying that "the American Legation in Japan seems to be a mere appendage

of the British Legation" Mr Morse knowing how grossly unjust to me this statement is, and cognizant doubtless of the fact that like reports had been previously published in the United States reflecting in like manner upon my official action here, anticipated the "Worlds" publication, and on the 1st ult. ultimo wrote me a letter disclaiming all this in the words following:

" New York Herald Office,
Feb. 1st 1881.

" My dear Mr. Bingham:

I write this hasty
" note rather to satisfy myself on a point of
" delicacy than from any sense of a necessity for
" assuring you of my esteem and good will.
" You have perhaps observed that in the reports
" of several interviews between newspaper
" attachés and myself your name
" has frequently been mentioned. I am
" confident that as a rule the allusions

" have not been of a distasteful nature.
" But in one instance the inexcusable
" carelessness, or worse, of the reporter
" led him to introduce a variety of
" comments as coming from me (Mr. House) which
" were entirely the work of his own imagi-
" nation. Thus, he brought in the names
" of several individuals of whom I (he) never
" even heard unless in the rudest way
" and attributed certain acts to sources of
" which I had never dreamed. The writer
" was George Alfred Townsend who is not
" over particular in respect to accuracy.
" What he said about you (me) was in no sense
" injurious, but it happened to be - at least
" by implication - just the reverse of what I
(Mr. House) told him. For example, I stated that
" the surrounding circumstances were
" too adversely strong in Japan, for you (me)
" to help Japan out of her unfortunate

"position, no matter how much care
"and labor you might bestow. He (Townsend) put it
"that you were too weak to undertake much, etc.
"which to any one who knows you is a lu-
"dicrous perversion. I wrote two letters to
"the paper in which the interview appeared
"one to set the matter right; the other to
"correct an erroneous view of Japan's
"material resources".

I enclose herewith the letter of Mr. Hearn
to the Brooklyn Daily Eagle of date the 16th
of January last, which is the only com-
munication published by him which he
was pleased to send to me with his letter,
and which as its date bears witness is
no correction of the injustice done me
in the publication in the "World" of
the 16th of February last and which injus-
tice is manifest in my despatches to
the Department from 1873 to this date,
and abundantly shows therein from

my No. 17 dated Nov. 17th 1873 to this day.

All that has been said by me to the Department in my dispatches from that day to this of the importance of our commercial interests in the East, of the injustice practised towards Japan by Western nations, of the attempt to impose the opium trade upon her, of the propriety of not exacting the last moiety of the Shimonoseki indemnity, and of the propriety also of making return of the same to Japan, of the fact that Japan is the gate to our commerce with all the East, of our commercial interests therein, present and prospective, of the need to this Empire of such revision of existing Treaties as would give back to Japan what every Western Power claims for itself the right to control and regulate her own commercial and industrial interests domestic and foreign, of her right

to proclaim a quarantine to exclude the importation of pestilence into her homes under the flag of any foreign power or her own, of her right to regulate her internal autonomy, and to regulate her coast trade, to enforce her registration laws upon her own subjects, & to impose the restrictions of law by her own enactments upon all residents in Japan for the protection of life, property & reputation, and of her progress in arts, mechanics postal and educational reforms, has received, it gives me much pleasure to say, the approval of yourself and your honorable predecessor and this notwithstanding Mr. House's supposed statement to the contrary.

The remark of Mr. House as reported in the "World" about the Treaty of 1878. in relation to the last clause thereof, I beg leave to say is incorrect, and that the protocol of said Treaty without the

condition above mentioned I had the honor to submit to the department. It is sufficient to say, as I have before communicated to the Department that the said Article X. His Excellency Mr. Terashima late His Imperial Japanese Majesty's Minister for Foreign Affairs verbally informed me was inserted in accordance with his telegram to the Japanese Minister in Washington, and gave to me as his reason for this action that His Imperial Japanese Majesty's Government feared if this condition, to wit, the assent of the other Treaty Powers as provided to our Treaty, should not be obtained before the Treaty should go into effect the European Powers would be offended. I may be permitted to add that any action towards Japan in the commercial interests alike of the United

States and Japan in the matter of the Treaty of 1878 or any other matter was not inspired by Mr. House, nor was the Treaty of 1878 made by our government made through the exertions, as Mr House is reported, in the "World" of the 16th ultimo, to have said, of of "certain well disposed parties". I did what was done by me in the premises, I beg leave to say without any suggestion pur or action by Mr. House, or of "certain well disposed parties" as stated in the "Worlds" report of Mr. Houses conversation. The Truth is Mr. House as published in the "World" and the "Brooklyn Eagle" recited much of what I have had the honor to suggest and favor in my dispatches touching Japan, and which Mr. Fish and yourself have been pleased to approve and I may add warrant in your respective Instructions to me.

It is not improper I think, to state

the fact as shown by my despatches to the Department and their enclosures that instead of the "American Legation in Japan" during my service here being as the "World" has it, a "mere appendage of the British Legation", I have as therein shown uniformly antagonized the oppressive policy of Great Britain and this in the interest of Japan and of our country, and the interests, as well, of justice and our common humanity.

My No. 114 to the Department under date August 31, 1874 shows how untrue the "Worlds" statement is that this Legation is "a mere appendage to the British Legation".

I may add that all my subsequent correspondence is equally conclusive against the statement of the "World".

I have the honor to be, Sir,

Your obedient Servant.

Jno. A. Bingham

Enclosure 1 in No 1272.

Extract from the "New York World" of Feb 16, 1881.

JAPAN AND AMERICA.

What the United States Can Do and Have Not Done to Foster Our Commerce.

A reporter of THE WORLD having been detailed to get the views of Mr. E. H. House, long a resident of Japan and editor of the Tokio *Times*, on the condition of our relations present and prospective with Japan, found Mr. House at the Union Square Hotel, when the following conversation took place:

"I have called, Mr. House, for the purpose of inquiring as to the degree of foundation for an impression which is becoming prevalent, to the effect that great opportunities exist for the extension of American commerce in the far East, especially through the agency of Japan, and that the indifference of our authorities at Washington to these opportunities may perhaps deprive us of immense mercantile advantages in the future. Are you aware of any such condition of affairs?"

"It is certainly true that many circumstances combine just now to give the United States a precedence in the development of Asia—both political and commercial—and it seems equally true that no attempt is made, or is likely to be made, toward utilizing them."

"Can the details be explained in a manner to make the situation clear to readers who are not *au fait* in Eastern subjects?"

"I should suppose so; although such readers must accept a good deal of what is told them with reasonable faith. I could not be called upon, for example, to furnish substantial proof of extra separate statement I might offer in answer to your questions, though I could refer you to sources from which you could satisfy yourself or any who might be doubtful."

"Let us commence, then, with what is nearest and most familiar. Is it correct to assume that Japan is the proper channel of our approach to large trading relations with Asia?"

"As matters stand, it is so. By acting conjointly with Japan, we may accomplish more in four or five years than we could moving independently in a score."

"I should be glad, then, to learn more than is commonly known of how we stand with the Japanese and the real light in which they regard us. Do they look at us with genuine good-will, or is their attitude merely one of superficial courtesy?"

"There is no doubt that they have a very strong feeling of friendliness for and confidence in Americans. It rests on substantial foundations to some extent, although much of it seems also due to a simple trust in our good intentions and a rather blind belief in our willingness to deal more honorably with them than other nations will. We have not always given justification for that kind of confidence, but still we have treated them infinitely better than most of the European powers. Our Ministers, as a rule, have not bullied or tormented them unmercifully, and we have encouraged them in many of their progressive enterprises, whereas the governments of Europe, through their representatives, have plied ignominy upon them, and have combined to retard every ambitious effort they have made toward advancement and enlightened independence. We have never, is it true, done a single generous thing for them, but we have not often interfered to prevent them from doing things for themselves, which has awakened a somewhat excessive sense of gratitude on their part."

"May I ask what the feeling of the Japanese officials is respecting the retention or the return of the money we hold in the form of the 'Simonoseki indemnity,' which is always before Congress and never gets beyond it?"

"That is a question which no foreigner can answer except as matter of opinion. In the course of a pretty long intimacy with members of the Japanese Government I have never heard a word to indicate their actual feeling on that point. They skilfully evade all statements that would commit them. It is natural to suppose they would be glad enough to get back a sum of money which belongs to them by every law of right and honor. They need it sorely enough. Japan is desperately poor, and $1,000,000 would be a welcome surprise. But they will not say they want it. Their dignity forbids them to beg for what they have been robbed of, and it must be given back voluntarily if they are ever to get it. I do not believe they would take it if it were burdened with any conditions as to its future disposal, as was once proposed. They know they were bitterly wronged in that transaction, and, so far as I can judge, they hold it unbecoming to signify the least anxiety or to accept anything but a frank and hearty restitution. But when that is once made I know them well enough to be assured they will find means of conferring as much gratification upon us, who restore it, as they who regain it can possibly experience."

"You speak strongly about the injury done Japan, but of course there are two sides to the business. It is not presumable that the United States was all in the wrong."

"But it is unfortunately the fact. The positive truth about that wretched Simonoseki proceeding has never been understood in this country. Everybody says, as you say, 'there must have been some ground for what we did.' There was absolutely none. The vague notion is that the Japanese wantonly destroyed some of our ships, that we were obliged to take measures of redress and that this indemnity was part of the penalty exacted. Now, the Japanese never wantonly destroyed or injured any American ship——"

"Surely there was an attack on an American ship at Simonoseki?"

"There was once a steamer, the Pembroke, which chose to enter the port of Simonoseki, where no foreign vessel was allowed by treaty to go, and to anchor there, it is supposed with a view to illicit trade. When discovered she was fired at and driven away. She was not hurt in the least degree. So there was no grievance to begin with. But in addition to this the Japanese in their eagerness to avoid controversy actually paid a claim of $10,000 brought forward by the United States Minister, with $2,000 in addition for nominal interest. The Pembroke received $12,000 as a reward for impudently intruding into a port where she had no business. What more remained to be done in her behalf it would be difficult for anybody to say."

"Have you not forgotten the share of the ship-of-war Wyoming in that transaction?"

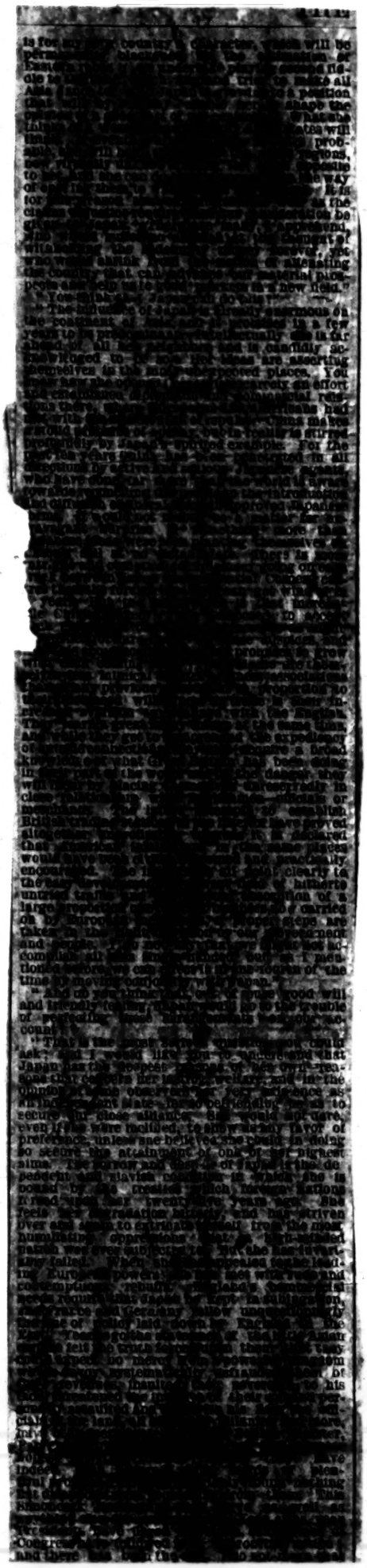
"I have not spoken of it, and I would like never to have to speak of it; but I have not forgotten it. The Wyoming was at Yokohama when the first undefined reports of the Pembroke affair were received. Without waiting for particulars, without orders or advices from anybody, the commander of the Wyoming sailed straight to Simonoseki, attacked the place and the ships lying in the harbor, destroyed two vessels and a considerable number of human beings and lost five of his own men. I do not see that that performance constitutes a claim for pecuniary compensation from Japan."

"How came it about, then, that we demanded and received so much money?"

"The great claim grew out of an expedition of chastisement organized by the British Minister of that day. God only knows what started him to act in the matter, for no English ship was ever harmed by nor ever went near the Simonoseki batteries. It was the rankest of outrages for him to interfere in any manner, as his Government sternly told him. If the telegraph had existed then the expedition would never have taken place, for repeated orders were sent from the British Foreign Office peremptorily forbidding it. They arrived just a week after the ships of England, France and Holland had sailed on their errand of infamy. We had no national ship available at the moment, and so our enterprising and ingenious Minister hired a merchant vessel, freighted her with a borrowed gun, and sent her down to add the moral force of our flag to one of the most immoral pieces of villany ever perpetrated in the name of civilization. After a few days of carnage and slaughter the work of hatred was completed, and a full vengeance was inflicted for deeds that had never been done. But this was not enough. Since the whole underlying motive on the part of the English Envoy was to terrify the Japanese into proffering enlarged trading privileges, such as the opening of several new ports, he persuaded his colleagues to join him in exacting a promise of $3,000,000, to be paid as compensation for the expenses of the expedition. Three millions! You must know that the amount was carefully calculated so as to exceed what it was believed Japan could give. Two millions were first spoken of and decided upon, but it was discovered that this sum was not utterly unattainable, so it was raised to $3,000,000. The expectation was that Japan would instantly confess inability to meet the requirement and unclose a batch of ports. But a tremendous effort was made, the first instalment was collected and handed over, and with much labor and hardship the successive payments were delivered until, in 1874, all was settled. You see, then, that the statement of account stands like this: Japan has against us, the intrusion of an American ship into a prohibited port, in defiance of solemn treaty obligations; the unauthorized and unprovoked attack of a ship-of-war upon the town and private fleet of a Japanese daimio, resulting in great loss of life and property; the participation of a chartered vessel in a formidable expedition against Simonoseki, again resulting in infinite havoc and desolation, and the exaction of a fine of one-fourth of $3,000,000—which $750,000 has now increased to about a million and a half, and is held, with a guilty sense of uncertainty as to its rightful disposition, in the State Department at Washington. We have against Japan, the facts that shots of warning and menace were fired—without inflicting injury—at the trading ship which smuggled itself into a forbidden harbor, and that the unwarranted onslaught of our corvette Wyoming was resisted with such violence as to cause the death of five of the attacking crew; and also the outlay for chartering a merchant vessel to go with a gun and lend moral support to a European fleet of sixteen men-of-war. Anybody can add up and compare the items and see where the balance lies."

"And you would like to see Japan get that balance at once?"

"I do not think so much of Japan in the matter as I do of the United States. I have plenty of sympathy for Japan, I hope, but my [illegible]



the restoration of a few bagfuls of money is what would satisfy the Japanese. Their pressing need is a thorough revision of their treaty, and the adoption of a new compact, the terms of which shall give them the same rights—and no more—that are enjoyed by nations which in Europe or America occupy the same position and stand on the same level as Japan. This they want, and—simple, just, reasonable, equitable as it is—this they cannot get from our Government."

"Do you mean that they have asked it and been denied?"

"Lister, if you please. Some three years ago, through the exertions of certain well disposed parties, aided by the good offices of the United States Envoy, Mr. Bingham, who is quite in sympathy with Japan's aspirations, a new treaty was drawn up and sent over to the State Department at Washington for approval. It was short, in nine clauses, and embodied the proper provisions on both sides for securing the mutual rights and benefits of the two nations. There was nothing in it to object to, and nothing was objected to. News was received in Japan that the treaty would be signed without delay and transmitted to Tokio for ratification. You may be sure there was great delight over this intelligence. The clouds seemed lifting, and the sun really appeared to shine out on the future. The document came, and the first glance at it shattered every expectation as ruinously as the British Minister is accustomed to shatter wine glasses or other implements in his bellicose moments of official debate at the Foreign Office of Japan. To the nine sufficient and satisfactory clauses was appended a tenth, stipulating that the treaty should go into effect when, and not before, similar treaties were executed by the various powers holding intercourse with Japan. I ask you to imagine it, for I have no words to characterize so monstrous, so idiotic a *non-sequitur*. It was exactly equivalent to saying it should go into effect at a time which never could arrive. If our State Department knew anything whatever on the subject, it knew perfectly well that England first of all would never, never, never, until forced by uncontrollable circumstances consent to such an agreement. It was not only an absurdity in itself but a hideous affront to the Government of Japan. It was like saying to a dying man, 'I will give you the draught that shall save your life and I will confide it to your greatest enemy to administer it to you as one poisoned.' Moreover, it was a most extraordinary act of self-abasement. Is the Government of the United States to proclaim itself unable to make its treaties into operation unless sanction thereto be given by the general nations of the earth, great and small, including Siam, Persia and Corea, Great Britain and the Sandwich Islands? This is the impossible set forth in the last article of the treaty. With such precedents before them, you may conceive that the Japanese feel they have little more to hope from our complacent indifference than from England's direct antagonism, although they are spared brutality and physical abuse at our hands. But if they may not get what they want as their readily acknowledged due, they may possibly get it in return for benefits to be conferred by them. They would never think of plotting any other country than ours to the promising commercial connections of Asia, but they could take Americans with them wherever they go without fear of introducing an element fatal to the happiness of the people. And they would do it if we would act the manly part towards them and make them honorably independent, as they deserve to be, by a new and upright treaty. It would be the opening of a revived existence for them—for us, the mere performance of the simplest duty. Armed with this diploma of membership in the community of nations Japan could soon conquer that opposition to her claims which England and the other adverse powers are always manifesting. Then she would feel a real and profound gratitude towards us, though Heaven knows we shouldn't have done so very much to entitle us to it, and her inclination would be to exhibit that gratitude in the material way I have endeavored to indicate.

"I believe," concluded Mr. House, "that I have now pointed out where the opportunities for extending our commerce lie. It is all along the Asian coast of the Pacific, the nations of which would enter gradually into very broad new relations with us, besides transferring to us much of their trade with England, the wares of that country having fallen into disfavor everywhere. And I have shown you how I believe, with hundreds of other careful observers, that the benefits in question can be expeditiously secured through the good will of an industrious, energetic and intelligent ally. To set forth all the grounds for my belief, I should be obliged to record thousands of minute details of experience—and as that is impossible I must ask you to take my word for general evidence of the tendency of events. There are very few students of Eastern development who are not convinced of the ease with which America could assume a guardianship over the destinies of that part of the world. Englishmen will not acknowledge it, however firmly they are persuaded of it, for obvious reasons; nor, as a rule, will the mass of Europeans. Some of our own countrymen even may find their account in denying it, but every honest and clear-sighted American knows it to be true and will join me in the hope that so noble a task as thus lies ready to our hands may be fulfilled with due reverence for its magnitude and its momentous consequences, and not without recognition of the higher demands of humanity which it entails."

If you want a chambermaid, go to the World Employment Office 1,267 Broadway.

Enclosure 2. in No 1272.

Extract from the Brooklyn Eagle of

date January 16th 1881.

JAPAN.

How the Country is Being Ex... by England.

A Commercial Treaty that Deprives her of Revenue and Prevents the Development of Native Resources—What the United States Might Do. An Interesting Letter from Mr. E. H. House.

UNION SQUARE HOTEL,
NEW YORK, January 5, 1881.

To the Editor of the Brooklyn Eagle:

A fortnight's absence from this neighborhood has prevented me from seeing, until to-day, "Gath's" skillful resetting of my share in a recent conversation upon Japanese topics. I have to thank him for his interesting arrangement of a series of facts which I could not have expected to see reproduced in so attractive a form. But I have also to blame myself for omitting to throw sufficient light upon one or two points which ought to be thoroughly understood by American readers. The most important of these, perhaps, is the apparent contradiction between the reputation enjoyed by Japan for swift and active enterprise and her failure to maintain a steady rate of practical advancement during the past two or three years. I shall be grateful for the opportunity of explaining the supposed anomaly, and showing that the Japanese are not themselves responsible for whatever tardiness has been displayed in their later development.

There is no doubt that the people and rulers of that country fairly deserve the eulogies bestowed upon their progressive character. Their ambition to win a high place among civilized nations has been rightly estimated by observant foreigners, and the reports of their honest endeavors to rival the intellectual achievements of Western communities have seldom been exaggerated. On that head, at least, their warmest advocates have kept themselves well within the limits of reasonable assertion. It is true, moreover, that until a short time ago, their efforts were successful in almost every direction. The material improvements introduced by them since the establishment of the present government, in 1868, have been worthy of States possessing far greater resources and advantages than Japan ever commanded. Their post office is a marvel of efficacy. Their lighthouse system is universally admitted to rank with those of the foremost European countries. Telegraph lines cover the entire surface of the empire. Railroads connect the capitals and their seaports. Their educational institutions are as admirably conducted as they are numerous. Army and navy are so organized as to extort praise from the most critical experts. The list of examples might be indefinitely extended, but it is enough to say that nothing which energy and zeal could accomplish was left undone in the work of bringing Japan forward to the front line of well developed nations. Thus it was until, let us say, three years since. About that time, a lack of vigor began to be noticed in many quarters. Certain valuable undertakings were allowed to languish, while others were altogether suspended. A call for retrenchment was heard on all sides, and, although the administration had shown no disposition to reckless extravagance, the necessity for a decrease in expenditure was insisted on with as much earnestness as if wastefulness had been the previous error of the day. After a process of investigation, it was found that the spirited intentions of the government must give way—no one could say for how long—to a course of rigorous economy. So far as the realization of her ardent aspirations was concerned, Japan must stand still. Her hope of substantial progress must remain unfulfilled, or await an indefinite period of better fortune. The fact of the sudden paralysis was manifest, but the causes were by no means so open to view. What these causes truly were I shall endeavor briefly to explain.

Judged from our standards of opulence, Japan has never been a wealthy nation. On the other hand, until its partial opening in 1854, it was never a very poor one. Its products were abundantly sufficient to its own needs, and the people, except in times of calamitous visitation, suffered no hardships. Foreigners came, and by degrees well known to the craftier class of traders against which the natives could not contend, the treasure of the islands was so depleted as to cause heavy embarrassment, a dozen years back. But the government was hopeful, knowing the sufficient if not profuse resources of the land, and looked forward with confidence to a future of reasonable prosperity. Its calculations were based upon the application of a financial system similar to those which have proved salutary in Europe and America. That the authorities would be left free to conduct affairs according to solid economic principles was taken for granted, as it ought to have been. The idea that any outside power could interfere to the extent of preventing a proper administration of the national finances was not dreamed of. Still less was it imagined that any Western nation would systematically and with deliberate intent withhold from Japan the means of maintaining her credit and providing for her own pecuniary support. That she should be doomed to poverty or ruin in pursuance of the selfish, settled policy of a great European kingdom was so far beyond the wildest fancy that no thought of guarding against such a contingency was entertained.

But so unhappily it came to pass. Within the last quarter of a century, it has grown to be a matter of life or death for Great Britain to extend, at all hazards and by any methods, the range of her commerce. Her manufactures must be sold, and purchasers must be found for them, or the knell of England's destiny is sounded. It may not be decreed from Downing street that, to this end, all the engines of cruelty, rapacity and inhuman barbarity that cold blooded ingenuity can devise, shall be brought into play; but so long as the end is attained, even proximately, by unscrupulous agents abroad, the processes are not too closely scrutinized at home. Of this hideous necessity of England's existence, Japan has been one of the most hapless victims. Untoward circumstances for which, unfortunately, the United States is much to blame, have given the British officials in Japan unusual opportunities to execute their schemes. The first American treaty, negotiated by Townsend Harris, was injudiciously made terminable—that is, its provisions and operations were to remain unaltered until both Japan and America should mutually agree to a change. Mr. Harris' purpose was to throw aside this original treaty after a few years, and replace by a more equitable compact; but the power to do this was taken from him, while other nations—Great Britain, France and the rest—imitated his ill omened example, without the least notion of ever repairing the intentional wrong. Thus, Japan was bound down forever, unless it should please the other parties to the treaties to release her, to several conditions contrary to her existence as an independent State. Among these was a rule that her customs tariff should not be altered except by consent of the Western powers. This, of course, was equivalent to a slow suicide; and it is hardly too much to say that Japan is already in a state that must terminate with her death as a sovereign empire, if the strangling pressure is not removed betimes. By various arts of chicanery, Great Britain gradually compelled Japan to fix all her duties at a nominal rate of five per cent. *ad valorem*, which barely suffices to pay the cost of collection. She is thus deprived of one of the most essential sources of a nation's revenue, and she suffers accordingly; how cruelly she suffers can be known only by those who have watched and sympathized with her pangs. Her total revenue is but about fifty millions of dollars annually; and how far that can go to the maintenance of all the institutions pertaining to a great empire, the reflecting reader may judge. Out of it army and navy must be supported; the court sustained (though that is a model of frugality), and the manifold accompaniments of a growing civilization preserved. How, then, can large enterprises be fostered and plans of healthy development be matured? Five or six years ago the revenue was greater, amounting to some sixty millions; but this was mainly drawn—except two paltry millions from the customs—from the farming class, and the Government was resolved to relieve them, so far as possible, even to its own serious inconvenience. The land taxes were consequently reduced to the lowest practicable figure; but from that moment ambitious effort and energetic achievement were at an end. And that was precisely what England had been scheming for. By keeping the tariff down, she secured what she believed to be a double advantage—her own exports went in unburdened, and since Japan could command no capital, competing industries could not be created or perfected. The game was, first, to keep the Government so poor that it could not foster home production of requisite commodities, and next, to get those commodities into the country, from England, on conditions most favorable to the British trader.

The question may be asked: "What were the other nations doing all this while?" They were, in fact, either through ignorance or indifference, constantly co-operating with England, and aiding her in the work of injustice and oppression. Whenever the British Minister at Tokio rudely repulsed a Japanese appeal for revision of the treaties, he was promptly seconded by his colleague from France, because the French envoy was and is under permanent instructions to follow blindly the Eastern policy of England. The German representative has sometimes been chided into the same course, and has sometimes taken it up from a coarse, vague notion that his country's trade interests likewise require the humiliation of Asiatic governments. The smaller fry sail in England's wake as a matter of commercial instinct. Russia does not participate in the shameful proceedings, but Russia has projects of her own and will give no active sign, though secretly sympathizing with Japan's hardships. And the United States? Well, her action is enough to make Americans blush for their country. While our Minister over and over again exposes the British machinations, demonstrates the plain duty of our Government, both on grounds of expediency and simple justice, and exhibits the folly as well as wickedness of the combined crusade against Japan, the authorities at Washington are either deaf to his representations or so careless as to make their conduct seem criminal. One Secretary of State was so ensnared and beguiled by English influences that he gave our Minister peremptory orders to unite with the British envoy and follow his lead in all particulars. Another, though permitting Mr. Bingham to have his way in breaking up the pernicious diplomatic ring of conspirators against Japan's peace and honor, threw aside the finest of opportunities for distinction and for establishing American supremacy in the East, by tacking on to a (proper and carefully drawn new treaty, a stultifying clause which actually allowed England to render the whole document inoperative. Thus we, who claim to exercise the utmost liberality in our dealings with weaker nations, and to be guided solely by justice and integrity in our foreign intercourse, are made the instruments of England's cunning and brutality, and forced to co-operate in an infernal plot for the virtual extinction of a struggling and high minded nation.

It is almost superfluous to point out where the duty of the United States lies in this connection. As it happens, our duty and our interest are this time identical. The day is not very remote when we shall be glad of the good will of Japan, for, unless she goes under entirely, she will be able to help us immensely in extending our commercial relations in Eastern Asia. We shall be needing markets ourselves before many years have passed, and Japan will not only buy all she wants from us, in preference to buying from England, but will find us hosts of purchasers by very simple and natural methods on the Asian Continent. Any way regarded, our path is plainly indicated. We should tear up the vicious old treaty, which makes slaves and paupers of the Japanese, and enact a new one, which shall enable them to stand upright in the light of day, and, first of all to put a little money in their purse, for obvious and immediate needs. Let all restrictions on Japan's tariff be wiped out at once, as far as we are concerned. This is not a question for protectionists and anti protectionists to wrangle over, although England disingenuously prates about initiating Japan into the virtues of free trade. England herself draws one hundred millions of dollars a year from her custom houses. Upon Japanese products alone she lays a duty exceeding all that Japan receives from every import that enters the empire. On the single article of Japanese tobacco, Great Britain levies $3,600,000 annually. Japan obtains less than $1,600,000 on all her imports from every part of the world. When Mr. Hares the necessity of increasing her income [illegible] six or eight millions, in order [illegible] try through her inevitable ob[illegible]

stif the discussion of free trade. It is undoubtedly true that one result of the augmented tariff would be the stimulation of certain industries which English influences have well nigh destroyed. The cotton growth and manufacture, and the sugar production among others, might be brought back to what they were a quarter of a century ago, but the world at large need not wail over that consummation, however much Britain might fret and the English envoy fill the air of Tokio with shrieks of wrath and woe. Nobody would be injured—not even England herself, in the long run, and a suffering and meritorious nation would be lifted from despair. It is a proud thought that America can easily take the lead in this work of reparation, and—quite unaided—bring it to completion. It is a sad thought that a sentiment of frigid unconcern for the miseries of a neighbor may check the very first steps toward so honorable a movement.

I trust I have done somewhat toward explaining why, while the instincts of Japan are all progressive, she does not, and cannot at this moment, progress; and that the stagnation of her present state is in no wise inconsistent with high national resolves and magnanimous impulses. And I thank you sincerely for allowing me to represent, at such length, the position in which that unhappy country stands toward the world, and the strange attitude assumed by the United States of America, which should be, by every rule of fairness and right dealing, Japan's protector and true friend.

Very truly, Your obedient servant,

E. H. HOUSE.

Referred to Mr. O'Connor
C. P.

No. 1273.

United States Legation,

Yokei, Japan, March 26th 1881.

Mr. Bingham

to

The Hon. the Secretary of State.

Subject.

Reply of Mr. Bingham to Consul General VanBuren respecting a proposed amendment to the Regulations of the Consular Courts of the United States of America in Japan.

Enclosures

1. Mr. VanBuren to Mr. Bingham dated March 15th 1881.

2. Reply of Mr. Bingham to Mr. VanBuren

dated March 22d 1881

No. 1273.

United States Legation,
Tokei japan. March 26th 1881.

Hon. William M. Evarts,
Secretary of State, Washington.

Sir:

On the 16th instant I received from Mr. Consul General van Buren a dispatch dated the 15th instant in relation to the Regulations of the Consular Courts of the United States of America in Japan, a copy of which despatch is herewith.

The Consul General, you will please note, calls my attention to the obscurity of paragraphs 245 and 251 of the Regulations and suggests that the same be amended by me so as to prescribe a scale of charges, with the approval of our Consuls. It is also to be noted that Mr. Van

Buren in his dispatch informs me for the first time that it has been his custom "to allow in cases of importance such sum as seemed in his judgment to be proper to be paid by the losing party to the successful party as a portion of the latters legal expenses, the same however always being less than the amount absolutely paid by him (the successful party) to his counsel."

On the 22d instant I made reply to Mr. Van Buren, (a copy of which reply I have the honor to enclose), in which you will observe that after calling attention to the words in the 243d paragraph of the Regulations, to wit: "the measure and mode of compensation of attorneys and counsellors shall be left to the agreement, express or implied, of the parties", I advise the Consul General that these words exclude the conclusion

that the prevailing party can under the Regulations have judgment against the losing party for any charges on account of attorneys' services rendered to the prevailing party in the action, and therefore the only costs which such prevailing party is entitled to have carried into his judgment of recovery against his adversary are the necessary costs of the suit and the necessary disbursements of such prevailing party in the prosecution of the same as defined and limited by the provisions of paragraphs 254-259 of the Regulations which specify the fees or costs to be taxed in civil cases in the Consular Court, to wit: the fees of the Court, the clerks' fees, marshals' fees, interpreters' fees, witnesses' fees for travel and attendance.

Further in reply to Mr. Van Buren you will observe, I express the opinion that it is doubtful whether under Section 4114 U.S. Revised Statutes, I would have authority to do

amend the Regulations of our Consular Courts as to authorize judgment therein in favor of the prevailing party as part of his costs on account of the fees for the services of his attorney in the case; and I further say therein that even if the power be given by said Section 4117 so to amend the Regulations I do not consider that it would be advisable so to amend pending the question recently raised of the validity of the act of 1860 of which Section 4117 above cited is a part.

Upon reflection I beg leave to add that it seems to me remarkable that Mr. Van Buren never before called my attention to this matter as he expressly says in his despatch to me of the 15th instant that "a judgment has never "been rendered by me (him) that the question "has not arisen and been again and again "argued, what are costs;" and adds, what I have above quoted, that "it has been "my (his) custom to allow in cases of im- "portance such sum as seemed in

"may (his) judgment to be proper to be paid
"by the losing party to the successful party as
"a portion of the latter's legal expenses," includ-
ing manifestly such allowance for the counsel fee
of the successful party as to the Consul General
seemed proper in "his judgment", but
always less than the amount absolutely
paid by said party to his counsel.

As this is clearly not authorized, in my
opinion, under the existing Regulations and
as it is also my opinion as stated to Mr. Van
Buren that no such provision should be made
at present if at any time for such allowances
to the successful party on account of his
counsel's fees I respectfully submit my opinion
in the premises, as herein expressed for
your consideration and trust that the same
may command your approval. It is
clear that the past custom of the Consul
General, in the premises, as stated by
him should not be permitted in the

future, as the Regulations are declared to have "the force of law", and, as I have pointed out, they expressly exclude from the judgment for costs in favor of the prevailing party any allowance by way of compensation to his attorney or counseller but leave the "measure and mode" of such compensation to the agreement of the parties, that is to say of such prevailing party and his counsel.

I have the honor to be, Sir,

Your obedient Servant

Wm. A. Bingham

Enclosure 1 in No 1273.

Copy

No 5150 United States Consulate General.

Kanagawa Japan.

March 15th 1881.

Hon John A. Bingham

United States Minister

Tokio.

Sir:

Among the other obscurities in the "Regulations" for our Consular Courts in Japan, and which causes me constant annoyance and difficulty is in the provision with reference to costs, or more properly speaking, the want of proper provision upon the subject.

The 245th paragraph of the "Regulations" provides that the measure and mode of compensation of attorneys and counsellors shall be left to the agreement of the parties" but there shall be allowed "to the prevailing party his necessary "cost and disbursements in the action "&c.

The

The 251st paragraph makes it necessary for the party in whose favor the judgment is rendered and who claims costs, to file a verified statement of the "items of "his costs and necessary disbursements,"

Under these provisions a judgment has never been rendered by me, that the question has not arisen and been again and again argued, what are costs.

The provisions are taken from the New York and California Codes of practice but the farther provisions of those codes, defining the costs to be allowed in different actions, are entirely omitted from our Consular Court Regulations.

It has been my custom to allow, in cases of importance, such sum as seemed in my judgment to be proper to be paid by the losing party to the successful party, as a portion of the latters legal expenses, the same however always

being less than the amount absolutely paid by him to his Counsel.

The uncertainty however remains and is a constantly recurring annoyance.

The different practising Lawyers here have drawn up and submitted to me a scale of charges which they desire to have adopted in my Court, I have declined acceding to the request, as the figures seem to me entirely too high, but I suggest whether it is not possible and desirable that a scale of charges should be agreed upon by yourself and our Counsels, and made a part of the Court Regulations.

It seems to me that the interests of Courts, suitors and practitioners alike would be promoted by such a proceeding and I respectfully submit the same for your consideration.

I have the honor to be Sir

Your obedient Servant

Thos B. Van Buren

Consul General

No 1047 Enclosure 2. in No 1273.

Copy

United States Legation
Tokei Japan March 22nd 1881.

Thomas B. Van Buren Esqr. &c. &c.

Sir,

Referring to your No. 5150. in which after citing the 245th and 251st paragraphs of the Consular Court Regulations you remark that the question what are costs is involved in uncertainty, and also enquire whether it is not possible and desirable to so amend the Court Regulations as to fix a scale of charges to be allowed as I understand you to the prevailing party against his adversary in all cases as costs, including fees or charges for the services rendered in the suit by the attorney of such prevailing party, I have to say that effect must be given to all the words of the 245th — 251st paragraphs, in the former

of

of which is the provision that
"the measure and mode of com=
"pensation of attorneys and
"counsellors shall be left to the
"agreement express or implied
"of the parties" This provision
excludes the conclusion that
the prevailing party can
under the Regulations have
judgment against the losing
party for any charges for or
on account of attorneys services
rendered to the prevailing party
in the action, and this con=
=struction is supported by the
words of the same paragraph
-"there shall be allowed to
the prevailing party his neces=
=ary costs and disbursements in
the action." These "necessary costs
and disbursements" are in my
opinion restricted in our
Consular Courts to the fees
specified in paragraphs 254-
-257 inclusive of the Court Regulations,

This opinion rests upon the rule that a party can only recover costs from his adversary when especially authorized by Statute, and that the Statute must be strictly construed. As no costs beyond what is specified in the said paragraphs 284-289 inclusive are authorized by the Court Regulations, and supposing it to be within the authority given by Section 4117 Revised Statutes (which is doubtful) to so amend the Regulations, as suggested by you that the prevailing party may recover as costs such charges for and on account of the services of his attorney in the action as may be prescribed by such amendment. I have to say that I do not deem it advisable at present (if at any time) to make such amendment pending the questions now raised of the validity of the acts of Congress by which the

the Consular Courts of the United States in Japan are created.

I am Sir

Your obedient Servant.

(Signed) John A. Bingham

File

Ack

No. 1274.

made

United States Legation,

Tokei, Japan, March 26, 1881.

Mr. Bingham

to

The Honorable the Secretary of State.

Subject.

Receipt of Instructions 565 — 569. Special reference made to enclosure in No. 567.

No. 1274.

United States Legation.

Tokei, Japan, March, 26th 1881.

Hon. William M. Evarts,

Secretary of State,

Washington,

Sir:

I have the honor to acknowledge the receipt of Instructions #65, 566, 567, 568 and 569 respectively, with the enclosures mentioned in your No. 567; and also a copy of the President's Message with its enclosures in relation to the action of our government in the unhappy conflict of the States of Chili, Peru, and Bolivia with a view to an amicable settlement thereof.

It is doubtless exceedingly gratifying to the people of the United States that the good offices of our government

were so cordially tendered to secure an honorable settlement of the difficulty between the belligerents. It cannot be questioned that this considerate and kindly proffer of good offices was made in the interests of humanity.

I have the honor to be,

Sir,

Your obedient servant,

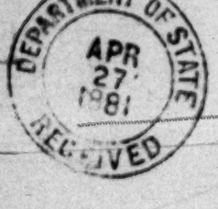
Wm. H. Seward

Referred to Mr. O'Connor.
C.P.

1275.

File

May 10th 1881



United States Legation

Tokei, Japan. March 28, 1881

Mr. Bingham

to

The Hon. the Secretary of State

Subject

Mr. Bingham shows that John M. Ross convicted of murder in the United States Consular General Court Yokohama cannot be discharged by a proceeding upon Habeas Corpus in a United States Circuit Court.

No. 1275.

United States Legation,
Tokei, Japan March 28th 1881.

Hon. William M. Evarts,
Secretary of State, Washington.

Sir:

I gives me pleasure to note in your Instruction No. 566. of date the 7th ultimo in relation to the statement of Judge Sawyer of the United States Circuit Court of California that no appeal could be taken to that Court from the final judgment of the Consular General Court of Kanagawa (Yokohama) in the case of John M. Ross lately convicted of murder therein, that you are pleased to say that I am "to be congratulated upon this termination of the question and the approval of your (my) views of the law from so distinguished a source".

It is highly gratifying to me, I beg leave to say, that I am sustained by that learned judge and also by you in the opinion given by me on the application of Mer. Hill for an appeal from the final judgment of the Consul General in the case to the United States Circuit Court of California. I deem it important to acquaint you that recently and since I forwarded my No. 1269 of date the 17th inst. I have been notified by Mer. Hill that he has been advised of Judge Sawyers' opinion and has received the transcript of the record in the case the same having been returned to him upon his request from San Francisco, and that it is his purpose to apply at Albany New York for the discharge of Ross upon Habeas Corpus. Upon the authorities cited by me in my No. 1260 of date the 28th ultimo I have expressed the opinion therein stated and which is

still entertained by me that as our statute vests no appellate jurisdiction in the Circuit Courts of the United States or in the judges thereof to review and reverse the judgment of the Consular Court in this case the prisoner cannot by a proceeding upon Habeas Corpus in a United States Circuit Court be lawfully discharged from custody.

Knowing as I do that the question raised in this case involves of necessity the validity of our Treaties with Japan, also the validity of our laws for their enforcement, and all our commercial interests as well in this Empire, it seems to me proper to suggest that the United States District Attorney at Albany New York be instructed in the premises. It cannot be doubted

that the rights and interests of the United States dependent upon the determination of the questions raised in this case by British agents, by the British Government & by the prisoner through his counsel are quite as sacred and in every sense quite as important as are the alleged rights of this convicted murderer.

I have the honor to be, Sir,

Your obedient Servant,

Mc A. Knighton

File

Ack

made

No. 1276.

United States Legation.

Tokei, Japan, March 28, 1881.

Mr. Bingham

to

The Hon. the Secretary of State.

Subject.

Mr. Bingham informs the Hon. Secretary of State that he has notified the Portugese Minister that Mr. Jones cannot be appointed Acting Consul for Portugal at Nagasaki.

No. 1276.

United States Legation,

Tokei, Japan, March 28, 1881.

Hon. William M. Evarts,

Secretary of State, Washington.

Sir:

In accordance with your Instruction No. 568 I have the honor to acquaint you that I have this day addressed a note to His Excellency Joaquim José de Grace the Portugese Minister in China and Japan in which I have made known to him that our government has under present circumstances been constrained to decline His Excellency's request for the appointment of Mr. Jones to be acting Consul for Portugal at Nagasaki, and I have also therein expressed to His Excellency the regret of our government that

it finds itself reluctantly compelled to decline granting permission to Mr. Jones to accept the commission to be such acting Consul for Portugal.

I have the honor to be, Sir,

Your obedient Servant,

Wm A. Seward.

Ask

Hdqrs

No. 1277.

United States Legation,

Tokei, Japan, March 29, 1881.

Mr. Bingham,

to

The Honorable the Secretary of State.

Subject.

Proposed Treaty between Japan and Hawaii

No. 1277.

United States Legation,

Tokei, Japan, March 29th 1881.

Hon. William M. Evarts,

Secretary of State,

Washington.

Sir:

I have the honor to acquaint you that the information has been confidentially given me with the privilege to communicate the same confidentially to you that His Majesty the King of Hawaii during his recent visit to Japan verbally agreed with His Imperial Japanese Majesty upon a new Treaty of Friendship and Commerce between the two powers in substance as follows:

First: the existing Treaty between them is abrogated.

Second: the two powers agree to admit

to residence, trade, and travel throughout the dominions of each the subjects of the other and each guarantees the freedom of religion within his dominions to the subjects of the other.

"Third: the subjects of Hawaii are permitted to trade in all the ports, rivers, and bays of Japan to the same extent as native born japanese subjects and on the same terms as to taxes, imposts, duties, &c. as japanese subjects may be required to pay.

Fourth: Extra-territorial jurisdiction is surrendered by the Hawaiian King in consideration of the privileges accorded.

The Treaty is to be reduced to writing and signed by the duly authorized representatives of each Government without delay and to take effect immediately upon the exchange of the ratifications thereof.

This you will observe is sweeping

and ignores altogether the partisan of certain European powers that this government ~~may~~ not enter into new Treaties with any one Western power without the consent of all the co-operative States of Europe.

I am promised a copy of the Treaty as soon as ratifications are exchanged which I will promptly forward to you.

It will always be a source of pride to me that our government by the Treaty of 1878 was the first to set the good example of separate Treaty-revision with Japan and the first also to declare as it was declared in said Treaty of 1878 that Japan should of right be perfectly free to control and regulate her own foreign and domestic commerce by the imposition of import duties taxes &c. and also to regulate

(over)

her coastwise trade.

I have the honor to be

Sir,

Your obedient servant,

Wm A. Bingham

No. 1278.

Requisition & inv
Griffin. Apr. 28. 81
Receipt will be sent.
Apr. 28, 1881.
WM. Cridler

DEPARTMENT OF STATE
APR
27
1881
RECEIVED

United States Legation,
Yokei, Japan, March 29. 1881.

Mr. Bingham
to
The Honorable the Secretary of State.

Subject.

Requests Storm-flags for the use of the Legation.

No. 1278.

United States Legation,

Tokei, Japan, March 27. 1881.

Hon. William M. Evarts,

Secretary of State,

Washington.

Sir:

I beg leave to respectfully request for the use of this Legation two five feet ensigns of the United States to be used as Storm-flags. The sea winds bear very harshly upon our flag when exposed at our Legation here.

I have the honor to be,

Sir,

Your obedient Servant.

Jno A. Bingham.

Referred to Mr. Scudder
C. P.

No. 1279.

Mr. Adee

United States Legation

Tokei, Japan, March 29, 1881.

Mr. Bingham

to

The Honorable the Secretary of State.

Subject.

Mr. Bingham transmits the Monthly Return of the Customs of Japan for Feb. 1881.

Enclosure.

Duplicate Copies of the "Monthly Return of H. I. M.'s Customs of Japan for February 1881.

No. 1279.

United States Legation,

Tokei, Japan, March 29. 1881.

Hon. William M. Evarts,

Secretary of State,

Washington.

Sir:

Herewith I have the honor to transmit for your information duplicate copies of the "Monthly Returns of His Imperial Japanese Majesty's Customs of Japan for the month of February 1881. by which you will observe (p. 9.) that the total value of domestic exports for the month was, Yen, two million four hundred and fifty two thousand five hundred and ninety four, and fifty nine sen. (2. 452. 594: $\frac{59}{100}$); and of the import of foreign productions, Yen, two million two hundred and twenty four thousand one hundred and fifteen,

and forty sen (¥ 2. 224. 113. $\frac{40}{100}$) showing an excess of exports over imports to the amount of yen two hundred and twenty eight thousand four hundred and eighty, and fifty six sen, (¥ 228. 480. $\frac{56}{100}$), and that the total amount of duties collected upon imports for the month was yen one hundred thousand, three hundred and seventy four, and ninety six and one half sen. (¥ 100. 374 $\frac{96}{100}$). or about four and three fourth (4¾) per cent ad valorem.

I have the honor to be,

Sir,

Your obedient servant,

Jno. A. Bingham

No. 1280.

United States Legation.

Tokei, Japan, March 31. 1881.

Mr. Bingham.

No. 1

to

The Honorable the Secretary of State.

Subject

Account of passports issued during the quarter ended March 31. 1881.

Enclosure

Passport of Mr Jerome D Davis. No. 15. 181

No. 1280.

United States Legation,

Tokei, Japan, March 21, 1881.

Hon. William M. Evarts,

Secretary of State,

Washington,

Sir:

I have the honor to inform you that during the Quarter ending the above date two passports were issued by me to citizens of the United States viz: No. 25 to Mr. Jerome D. Davis accompanied by his wife, and No. 26 to Master Charles Henry Jeffery.

The passport to Mr. Davis was issued upon Department passport No. 15.184, which is herewith returned; and that to Master Jeffery upon the affidavit of his father a native born citizen of the United States.

1/128

fees for both passports are credited in my account for the current quarter.

I have the honor to be,

Sir,

Your obedient servant,

Jno. A. Singleton.

No. 1281.

DEPARTMENT OF STATE
APR
27
1881
RECEIVED

United States Legation.

Tokei, Japan, March 31, 1881.

Mr. Bingham

to

The Honorable the Secretary of State.

Subject

Account for the Quarter ending March 31, 1881.

Enclosures.

Statement of account with vouchers.

No. 1281.

United States Legation,
Tokei, Japan, March 31, 1881.

Hon. William M. Evarts,
Secretary of State.
Washington.

Sir:

I have the honor to enclose herewith my account for the Quarter ending the above date with accompanying vouchers.

I have the honor to be
Sir,
Your obedient servant,
John A. Bingham

No. 1282.

DEPARTMENT OF STATE
APR 27 1881
RECEIVED

United States Legation,

Tokei, Japan March 31. 1881.

Mr. Bingham

to the

Honorable the Secretary of State.

Subject.

Account for rent of Court-House & jail.

Enclosure

Statement of account for rent with vouchers.

1282.

United States Legation,
Yokei, Japan, March 31, 1881.

Hon. William M. Evarts.
Secretary of State.
Washington.

Sir:

I have the honor to transmit herewith account for rent of Court House and Jail of the United States in this city for the year ending the 15th instant with duplicate receipts for the payment of $400 00 the amount due under the lease.

I have the honor to be,
Sir.
Your obedient servant,
Jno. A. Bingham

Acted Apr. 30, 1881. Mr. Cutler.

No. 1 Inclosure from Yokohama (copy) dispatch 289 to Mr. Cowdin. April 30, 1881. Mr. Cutler.

Ack + forward inclosure C. P.

Mr. Cadwalader

DEPARTMENT OF STATE
APR 27 1881
RECEIVED

United States Legation,

Yokohama, Japan, March. 31. 1881.

Mr. Bingham

to

The Honorable the Secretary of State.

Subject.

Mr. Bingham encloses his note to Mr. Inouye the Hawaiian Minister for Foreign Affairs to the Honorable the Secretary of State to be forwarded.

No. 1283.

United States Legation,

Tokei, Japan, March 31. 1881.

Hon. William M. Evarts,

Secretary of State,

Washington.

Sir:

Herewith I enclose my note in reply to that of His Excellency Mr. Green the Hawaiian Minister of Foreign Affairs of date the 15th of January last which you were pleased to transmit to me with your No. 567 of date the 10th of February last which I have the honor most respectfully to request that you will kindly forward to Mr. Green His Hawaiian Majesty's Minister for Foreign Affairs.

I have the honor to be, Sir,

Your obedient servant,

Jno A. Bingham

No. 1053.

United States Legation,
Tokei, Japan, March 30 1881.

His Excellency
W. L. Green,
Minister of Foreign Affairs of His
Majesty the King of Hawaii, &c. &c.
Sir:

I have the honor to acknowledge the receipt of your note of the 15th of January last in which you are pleased to acknowledge the receipt of my despatch to your predecessor of the 6th of Nov. 1880 with which I transmitted at the request of His Excellency Mr Inouye Minister for Foreign Affairs of this Government certain propositions thereof for the revision of the Existing

File

No 1284.

United States Legation,
Japan,
Tokei, April 13, 1881.

Mr Bingham
to the
Hon Secretary of State.

Subject.

Acknowledges Mr Blaine's circular notifying the fact that he has been appointed and confirmed as Secretary of State.

No 1284.

United States Legation,
Japan,
Tokei, April 13, 1881.

Hon James G. Blaine,
Secretary of State,
Washington D.C.

Sir:—

I have the honor to acknowledge the receipt of Department circular dated the 7th ultimo, acquainting me that you have been appointed to be Secretary of State, and that you have entered upon the duties of the office.

Be pleased to accept my sincere congratulations. That the great trust will be safe in your hands there is no room to doubt.

I have the honor to be,
Sir,

Sir.

Your obedient servant,

Wm A. Bingham

File

No 1285.

United States Legation,

Japan,

Tokei, April 13, 1881.

Mr Brigham

to the

Hon Secretary of State.

Subject

Instructions 569, 570, 571, 572, 573 and 574, account blanks and circular of March 7 received.

No 1285.

United States Legation,
Japan,
Tokei, April 13, 1881.

Hon James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to acknowledge the receipt of Instructions numbered 569 (with enclosure) 570, 571, 572, 573, 574, respectively, and also the receipt of Department Circular dated the 7th of March last. Referring to my despatch to the Department of date the 26th ultimo, numbered 1274, I beg leave to say that by mistake it was therein stated that with the other Instructions

therein

therein acknowledged I had
received and Instruction numbered
569.

I have the honor to be,
Sir,
Your obedient servant,
Wm A. Bingham

Copy to P.M. Genl for the Journal. May 19. 1881. Mc Crite

Ack. May 19. 1881. Mc Crite

One copy of report. mentioned to P.M. Genl. May 19. 1881. Mc Crite.

Submitted to P.M. Genl. May 19. 1881. Mc Crite

C.P.

E. R

No. 1286.

Made

DEPARTMENT OF STATE
MAY 16 1881
RECEIVED

See instructions

United States Legation,

Japan,

Tokei, April 13, 1881.

Mr Bingham

to the

Hon. Secretary of State.

Subject.

Japanese Post Office Report for 1880.

Shows a well organized and extensive service, and, among other things, an excess of 80,000 yen in receipts.

Enclosures.

Duplicate copies of the report.

No 1286.

United States Legation,
Japan,
Tokei, April 13, 1881.

Hon James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

Herewith I beg leave to transmit for your information three copies of the ninth report of the Post Master General of Japan, for the fiscal year ended June 30, 1880.

It is worthy of note that by the showing of this report the revenues of the Postal Department for the year derived from the sale of postage stamps, postal cards, or stamped envelopes, newspaper wrappers

wrappers, box rents, money order fees, &c. &c. exceeded the entire expenditure of the year for the postal service by yen Eighty one thousand seven hundred and ninety one $^{63}/_{100}$ (81,791 $^{63}/_{100}$), and that the total expenditures of the Department for the year amounted to yen One million ninety one thousand and nine hundred $^{35}/_{100}$ (1,091,900 $^{35}/_{100}$).

It also appears (page 4) that the aggregate number of letters, newspapers, books, samples &c. transmitted in the mails during the year was 68,944,782; that the number of letters stolen was Twenty four (24), of money orders Fourteen (14), of letters lost One hundred and ninety three (193), of money letters lost Two (2), and of letters destroyed by shipwreck One hundred and

eight

eight (108).

The aggregate length of all the mail routes in operation at the close of the year was 42,295 English miles, and the total number of post offices was 4,377.

In the table of foreign mails it appears (page 11) that about one third of the foreign mail matter was transmitted to or received from or by way of the United States.

Table I (page 45) shows that the number of Post Office Savings Banks at the close of the year was Seven hundred and seventy four (774), the number of depositors Thirty three thousand two hundred and seventy four (33,274) and the amount of money deposited yeu Six hundred and twenty two thousand eight hundred and thirty

five

five 50/100 (622,835 50/100).

The total amount of subsidy paid for the year to the Nitsu Bishi Mail Steamship Company (a Japanese Company) was yen Two hundred and sixty two thousand three hundred and thirty three 33/100 (262,333 33/100).

The report also contains interesting statistics of the merchant marine of Japan, and of the number of wrecks and the loss of life resultant therefrom annually for a series of years (pages 23-27).

I have the honor to be,

Sir,

Your obedient servant,

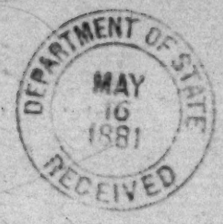
Wm A. Leighton

No 1287.

Books to Library

Ack. expressing pleasure at receiving this copy of the Catalogue of the Japanese Exhibition. May 25. 1881. W. Cister

Made



United States Legation,

Japan,

Tokei, April 13, 1881.

Mr Bingham

to the

Hon Secretary of State.

Subject.

Enclosing a Catalogue of the 2d Japanese National Exhibition opened in March.

Enclosure

Catalogue of the Exhibition in duplicate – four volumes.

No 1287.

United States Legation,
Japan,
Tokei, April 14, 1881.

Hon James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to forward with this despatch a copy of the catalogue of the Second National Exhibition of the Japanese Empire, which was inaugurated in this capital last month by His Majesty the Emperor.

On that occasion all the officials of the Imperial Household, His Majesty's Cabinet Ministers, the Foreign Representatives and their families and a large assemblage

of

of the people of Japan were
present.

This action of His Imperial
Majesty furnishes another gratifying
evidence of His Majesty's purpose
to promote the industrial interests
and the general welfare of his
people.

I have the honor to be,

Sir,

Your obedient servant,

M. A. Bingham

DEPARTMENT OF STATE
MAY
16
1881
RECEIVED

United States Legation,

Japan,

Tokei, April 13, 1881.

Hon James G. Blaine,

Secretary of State,

Washington D.C.

Sir:

I have the honor to transmit herewith the statement of my account for the Quarter ended the 31st ultimo.

I have the honor to be,

Sir,

Your obedient servant,

D. W. Stevens

Secretary of Legation

No 1288.

DEPARTMENT OF STATE
MAY 16 1881
RECEIVED

United States Legation,
Japan,
Tokei, April 15, 1881.

Mr Bingham
to the
Hon. Secretary of State.

Subject.

Transmitting duplicate account for the Quarter ended March 31, 1881.

Enclosures.

1. Statement of account, with Exchange vouchers.
2. Abstract of contingent Expenses, with two vouchers.

No. 1288.

United States Legation,
Japan,
Tokei, April 25, 1881.

Hon James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to transmit herewith a duplicate statement of my account for the Quarter ended the 31st ultimo with abstract of contingent expenses, two accompanying vouchers and one voucher for Exchange. This latter voucher shows that I received for my salary draft the equivalent of Three thousand dollars ($3000 00) United States gold and no more.

I

No 1288.

United States Legation,
Japan,
Tokei, April 25, 1881.

Hon James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to transmit herewith a duplicate statement of my account for the Quarter ended the 31st ultimo with abstract of contingent Expenses, two accompanying vouchers and one voucher for Exchange. This latter voucher shows that I received for my salary draft the equivalent of Three thousand dollars ($3000 00) United States gold and no more.

I

I have the honor to be,

Sir,

Your obedient servant,

Mc A. Bingham

Ack & approve — C. P.

No 1289.

Wade

Acked & approved May 20. 1881. No. Cutler

DEPARTMENT OF STATE MAY 16 1881 RECEIVED

United States Legation,

Japan,

Tokei, April 15, 1881.

Mr Bingham

to the

Hon. Secretary of State.

Subject.

The German Minister inform Mr Bingham that the European Powers will insist upon a revision of treaties with Japan in Europe by a joint conference. Mr Bingham expresses the opinion that the United States should not join in such conference, and that Japan's right to control her own commercial affairs should be restored to her.

No 1289

United States Legation,
Japan,
Tokei, April 15, 1881.

Hon James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I beg leave to confidentially acquaint you that on yesterday His Excellency Mr von Eisendecher, the German Minister at this Court, called upon me to ask my opinion in relation to treaty revision, but took occasion to say privately that the European Powers were disposed to insist that the preliminary consideration of the revision of existing treaties with Japan should be conducted in a general conference in Europe. I replied

to

to the Minister that our Government having accorded to that of Japan in the treaty concluded at Washington in 1878 all that His Imperial Japanese Majesty had asked in the letter on that subject which was addressed to all the Western Treaty Powers, I was of opinion that our Government would not enter into a joint conference with the European States on the subject. I also expressed the opinion that as our treaty of 1878 by its tenth article provided that it should not take effect until a similar convention should have been made between Japan and the other Western Powers, it was to be hoped that Germany and other European States might make like treaties with Japan severally, and thereby give back to Japan what of right belongs to her,

the

the control of her own commercial interests, domestic and foreign. In thus answering Mr von Eisendecher, I followed the instructions of the Department.

As I am advised, when the Japanese Commission, headed by His Excellency Mr Iwakura, visited Washington in 1871-2, a treaty revision was sought by a joint convention of the European States and the United States, which proposition was rejected by Mr Fish, and, in lieu thereof, that gentleman, in my opinion very wisely, signified to Mr Iwakura the readiness of our Government to treat with His Imperial Japanese Majesty's Commission at Washington for a revision of our existing treaties

with

with His Majesty's Government.

Great Britain having in 1866, as I have before stated, aided by other European States and our Chargé d'Affaires ad interim, forced upon Japan a substantial surrender of her rightful control over her commercial interests by the Convention which was concluded in that year and which limits Japan to an ad valorem duty not exceeding five per centum upon all foreign imports into this Empire, now seeks by European co-operation to maintain that oppressive arrangement in utter disregard of the requirements of justice, which requirements, it gives me pleasure to say, our Government fully recognized in the treaty concluded with Japan at Washington in 1878.

J

I trust that Japan will insist upon separate action upon this question, and have good reason to hope that she will do so, in which event I cannot doubt that what she so justly demands will ultimately be accorded to her by all the Foreign Treaty Powers.

The joint European action in the premises now sought by Great Britain and her allies, is another evidence that our co-operation with Great Britain, hitherto so offensively insisted upon by the latter, simply meant that the United States would aid Great Britain to control the commercial affairs of this Empire largely and almost Exclusively in British interests. It is very clear that our Government has

nothing

nothing to gain, but everything to lose by such cooperation. Our commercial interests in China and Japan, in my opinion, can best be promoted by refusing to join in a system of injustice and rapacity by means of a treaty revision based upon British policy in the East.

I have the honor to be,

Sir,

Your obedient servant,

Mc A. Pringhurst

Ack & approve C.P.

Mailed

File

No 1290.

United States Legation,

Japan,

Tokei, April 16, 1881.

Mr Bingham

to the

Hon Secretary of State.

Subject.

Storage of Kerosene oil in Yokohama.

On further information Mr Bingham seeks the revocation of the Governor's order for the removal of the Kerosene in private American godowns to the government godowns, representing among other things, that the charges are excessive and the accommodation insufficient. He is finally assured that no further action will be taken by the Governor, and is of opinion

that the matter will be amicably and equitably adjusted.

Enclosures.

1. Mr Bingham to Mr Inouye March 7/81.
2. Mr Inouye to Mr Bingham " 18 "
3. Mr Bingham to Mr Wooyeno " 22 "
4 " " " " April 9 "

No 1290.

United States Legation,

Japan,

Tokei, April 16, 1881.

Hon James G. Blaine,

Secretary of State,

Washington, D.C.

Sir:

Referring to my several dispatches to the Department, numbered respectively, 1241 and 1259, in relation to the storage of kerosene oil &c. in Yokohama, and also referring to Department Instruction No 571, wherein your honorable predecessor was pleased to approve my action as reported in my No 1241, touching

"the proposed discrimination of the
"Japanese authorities against certain
"American firms at Yokohama in

the

"the storage of kerosene oil" in that city, I beg leave to say that after I had forwarded my said No 1239, dated the 26th of February last, wherein I acquainted the Department of my further action in the premises and of my reasons therefor, viz: on the 4th ultimo I received from Mr Consul General Van Buren a communication enclosing letters addressed to him by Mr Fobes, Agent of the China and Japan Trading Company, and by Messers Fraser and Co (the firms mentioned in my previous correspondence) which communication, by way of reply to the instructions I had given to Mr Van Buren on the 23d of February last (a copy of which was enclosed in my No 1239) contained, among other things, the broad

General's statement that the charges for storage in

in the Government godowns as provided in the regulations for the storage of Kerosene oil at Nakamura which regulations, as you will see in my No 125-9 were approved by the Consul General Van Buren and the other Consuls) are excessive, and that in fact they were more than double the rates received by said American firms for storage of kerosene oil. The Consul General also informed me in his communication that hundreds of tons of dynamite were at its date lying in the canal at Yokohama and that gunpowder and gun cartridges were then also stored in different parts of the settlement in that city, and also that thirty thousand cases of kerosene were on store in the town of Kanagawa, and

and finally adding, very properly I think, in view of these facts, that the American merchants named should not be required to remove their Kerosene to the Government godowns and pay thereon "double and "treble Storage". I was further informed by Mr Foster that the capacity of the Government godowns was not sufficient for the Storage of the Kerosene on hand and en route from the United States.

It is greatly to be regretted that the Consul General ever gave his assent to the regulations which fixed for the storage of Kerosene oil in the government godowns such excessive and unjust rates as he now represents the fact to be, which rates when I took the action reported in my No 1259 had been reported to me to be very reasonable, and which I inferred must have been considered

considered to be reasonable when the several Consuls at Yokohama agreed to and approved said regulations. (see copy of the regulations, enclosure 1 with my No 125-9).

In view of these last named communications to me of the Consul General and Mr Fobes, I considered it due to our Government and to the rights of our citizens to renew my request that the order of the Kenrei at Yokohama for the enforcement of this discrimination against American imports should be suspended, and therefore I addressed His Excellency Mr Inouye a note to that effect of date the 7th of March last, a copy of which is herewith.

1/1290

On the 21st ultimo I advised Mr Van Buren that I had asked this suspension of the Kenrei's order for the time being, and further said to him in my note, this suspension I shall insist upon

until

"until a satisfactory arrangement can
"be obtained". On the 18th ultimo Mr
Inouye made reply to my note of the
2/1290 7th ultimo, a copy of which reply is
herewith, and therein declined my request
for the suspension (pending other arrange-
ments) of any further proceedings on the
part of the Kenrei (Governor of Kanagawa).

Being further advised in
regard to the facts stated in my note
of the 7th ultimo to Mr Inouye, on
the 22d ultimo I addressed a note
to His Excellency Mr Wooyeno, then
acting as Minister for Foreign Affairs,
in which I insisted upon the request
made in my note to Mr Inouye, that
any further action of the Kenrei of
Kanagawa in the premises be in
3/1290 suspended, a copy of which commun-
ication to Mr Wooyeno is herewith.

You will please note in my

communication

communication to Mr Wooyens I specifically state the information given to me by Mr Van Buren and Mr Fobes as my reason for insisting upon my request, especially calling his attention to the reason given by Mr Imonye for declining my request of the 7th ultimo; also to the assurances given to me by His Excellency Mr Imonye in his note of the 22d of February last that no discrimination was made or would be made by His Excellency's Government against imports from the United States or against the citizens thereof, and that I further say that since I gave the instruction to Consul General Van Buren as requested by His Excellency I have learned the facts stated by me in my note to His

Excellency

Excellency Mr Wooyens (enclosure 3), and the further fact that the storage charges under the Government regulations are greatly in excess of what ought to be charged and of the actual cost of storage, and that such excess of charges cannot under the treaty be lawfully imposed upon American citizens, and that to impose them would be violative of the treaty rights of the United States.

In an interview on the 9th instant Mr Wooyens informed me that no further action will be taken by the Kenrei at present, and that my representations will be respectfully considered.

Thus the matter stands, precisely where it did when I wrote my note to His Excellency Mr Inouye of the 17th of January last, a copy of

of which was enclosed in my No 1241 above mentioned; and which action by me was, as herein stated, approved by Department Instruction No 571.

Allow me to add that on the 9th instant, after my interview with Mr Wooyeno, my attention was called to a private note addressed to me by Mr Fobes, of date the 7th instant, in which he informed me of the interference by certain Japanese police with the Japanese servants employed by the China and Japan Trading Company when employed in transferring some merchandize to the godown of said Company. I addressed Mr Wooyeno a note of date the 9th instant on the subject, protesting against such interference with the guaranteed treaty rights of citizens

of

4/1290 of the United States, a copy of which note I have the honor to enclose herewith.

I may be permitted to say that in my opinion it is competent for the Imperial Government of Japan to provide by law, without first obtaining the consent or approval of Consuls, for the protection of property and life in the several open ports of Japan, by regulating shooting therein and prohibiting the same save under the limitations of a license; also by prescribing a quarantine against the importation of pestilence; also by prescribing at what place large quantities of inflammable or explosive imports may be stored. In all this it seems to me I am fully sustained by the general instructions of the Department, and especially by Instruction

No

No 18 in reply to my despatch No 17 (Foreign Relations for 1874, page 635 and page 638); also by Instruction No 401, approving my action as reported in my No 885 (Foreign Relations for 1879, pages 604-606) and my No 918, respecting quarantine regulations, approved by Instruction No 447; and also by the approval of my advice to our Consul at Nagasaki, as reported in my No 1242, concerning the proposed joint Consular action for the government of that city. (See Department Instruction No 570).

I cannot doubt that the assurance given by His Excellency Mr Inouye, as stated in my No 1259 to the Department, viz: that no discrimination will be made by this Government against American citizens upon

American

American productions imported into Japan; neither do I believe that excessive or unlawful charges will be imposed upon them in contravention of our treaty rights (against which, as you will observe, I have protested in my note to Mr Dooyeus, a copy of which is herewith).

I respectfully submit my action in the premises, as herein reported, and trust that the same may command your approval.

If any further formal agreement is to me made on the subject of the place and rates of the storage of kerosene oil and other inflammable substances imported into Yokohama (which I do not suppose to be necessary), I submit that such agreement should be made in accordance with the 2d clause, 12th article of our treaty

with

with Japan dated July 29th 1858, by the persons charged with the diplomatic relations of the United States in Japan "in conjunction with the person or persons appointed for that purpose by the Government of Japan".

I have the honor to be,
Sir,
Your obedient servant,
J. C. Pickham

No 1290 Enclosure 1.

No. 1411. United States Legation
Tokio March 7th 1881.

His Excellency Inouye Kaoru,
His Imperial Japanese Majesty's
Minister for Foreign Affairs.

Sir,

Referring to my No 1409 in which I acquainted Your Excellency of my having, in compliance with your request, notified the United States Consul General to instruct American merchants to store their kerosene oil in accordance with Your Excellency's Government regulations, I beg leave to say that I am now informed that the storage capacity of the government godowns at Nakamura is not sufficient for the present stock of kerosene oil in the port of Yokohama, and also that large quantities of kerosene are already on store in Kanagawa, the property, in fact,

fact, of foreign holders. Upon this state of facts and in view of Your Excellency's assurance to me that there shall be no discrimination against American imports in the storage thereof in Yokohama or in Kanagawa, I think it due to my Government to renew the request which I made before, that Your Excellency will direct a suspension of any further proceedings on the part of the Consuls for the present touching the storage of Kerosene oil, until an amicable arrangement may be made satisfactory and just alike to Your Excellency's Government and my own. I have only to add that the present storage of Kerosene in the Godowns in the Swamp Concession is no more dangerous to property than its storage would be at Nokamura.

Accept, Sir, the renewed assurance of my high consideration.

(Signed) John A. Bingham

No 1290. Enclosure 2.

No 519. Foreign Office Tokio
The 18th the 3rd Month
the 14th Year Meiji

His Excellency
John A. Bingham
Envoy Extraordinary and Minister
Plenipotentiary of the United
States of America.

Sir!

I have the honour to acknowledge
Your Excellency's communication
of 7th instant relating to the
storage of Kerosene oil at
Yokohama, in which you state
that having notified the United
States Consul General at that
port to instruct American
citizens to store their Kerosene
in accordance with the Government
Regulations, You are now informed
that the storage capacity of
the Government Godowns at
Nakamura is not sufficient
for the present stock of
Kerosene

Kerosene oil in Yokohama; and also that large quantities, the property of foreign holders, are already in store at Kanagawa: and Your Excellency requests upon this state of facts that I will (pending other arrangements) direct a suspension of any further proceedings on the part of the Kenrei for the present, touching the storage of Kerosene oil.

In reply I have to say that having again referred to the Kenrei for information on the matter, I am informed by him firstly, that the godowns at Nakamura are capable of containing nearly double the amount of Kerosene now stored there; and secondly, that to the best of his information no such stores of oil as are referred to by Your Excellency as existing at Kanagawa are in fact to be found there.

Under these circumstances Your Excellency will see that I should not be justified in interfering with the course already prescribed for general application in regard to the storage of Kerosene within the Settlement at Yokohama.

I avail myself of this occasion to renew to Your Excellency the assurance of my highest consideration.

Inouye Kaoru

His Imperial Japanese Majesty's Minister for Foreign Affairs.

No 1290 Enclosure 3.

No. 1420 United States Legation
Tokio Japan March 22nd 1881.

Copy

His Excellency Hooyuns Kagenori
His Imperial Japanese Acting
Minister for Foreign Affairs.

Sir,

Referring to His Excellency Mr. Inouye's note to me, dated the 18th instant, in reply to my communications of the 7th instant in which I requested for reasons therein stated, that for the present any further actions of the Kenrei at Kanagawa to enforce the Regulations adopted March 16th 1877 for the storage at Nakamura of kerosene oil and other inflammable substances imported into Yokohama might be suspended until a satisfactory arrangement might be made between the Government of His Majesty and that of the United States for the storage of Kerosene oil, - I beg

leave

leave to say, that I note with surprise that His Excellency Mr. Irouye, declines my request for the reason, that the Kenrei of Kanagawa, has informed him that "the go-downs at Takanawa are capable of containing nearly double the amount of Kerosene now stored there, and also that no such stores of oil as are reported by me "as existing at Kanagawa are in fact to be found there."

You will perceive that by reason of these statements of the Ken-rei, His Excellency Mr. Irouye expressly says in his note to me of the 18th "instant that he "would not "be justified in interfering "with the course already prescribed for general applications, (meaning the storage Regulations of 1877) in regard to the storage "of Kerosene within the Settlement "at Yokohama.

now permit me to acquaint you that the Ken-rei, as I am advised by the Consul General - by Mr. Fobes of the China and Japan Trading Company, and by Messrs Frazer and Company is altogether mistaken in both of his statements above mentioned) First: Mr. Van Buren says, that at the very time (26th ultimo) some 30,000 cases of Kerosene were stored at Takashima-cho, in the centre of the native town of Kanagawa, Mr. Fobes makes the same statement and asserts - that said oil is still there! - Second I am verbally informed by Mr. Fobes that the Takamura Go-downs have not near the capacity for the storage of the Kerosene oil now held in - Yokohama and Kanagawa and en-route for that port. Of the truth of both of these state- = ments I have no doubt. and

therefore

therefore repeat my request which undoubtedly would have been complied with by His Excellency Mr. Inouye had he been possessed of the facts now specifically set forth as above, by Mr. Van Buren, Mr. Fobes, and Frazer and Company.

Allow me to further call your attention, to the fact stated by Mr. Inouye, in his note to me of date the 22nd ultimo, "His Majesty's Government" by the Regulations of 1877 for the storage of all "inflammable substances," have never bound nor attempted to bind citizens of the United States alone, but the subjects and citizens of all powers alike" and that "no discrimination is to be made "by His Majesty's Government against "the citizens of the United States, "on the articles imported from "the United States."

As such discrimination has been made by the Ken-rei at

at Kanagawa against the citizens of the United States alone, and against Kerosene oil, imported from the United States alone, by Frazer and Company and the China and Japan Trading Company. I renew my request made in my note of the 7th instant for the suspension for the present of any further actions by the Kenrei of Kanagawa against those two American firms, in the matter of the storage of Kerosene oil in their own Godowns- not doubting if my request is granted, which I am sure you will be pleased to grant, that a satisfactory arrangement can be made.

Allow me further to say that since I gave notice as requested by Mr. Drouyn, and upon the assurances above stated, as set forth in his dispatch to me of date the 23rd ultimo,

I

I have been made acquainted with the facts herein stated and with the additional fact that the storage charges at Nakamura are greatly in excess of what ought to be charged, and of the actual cost of storage, therefore I beg leave to say that said charges in excess of the actual cost of storage invade the Treaty rights of the United States, and of its citizens, and will not in my opinion be submitted to by my Government.

Please favor me with an early reply.

Accept the renewed assurance of my highest consideration.

(Signed) John A. Bingham

No 1290.

Enclosure 4.

No 1440. United States Legation
Tokei Japan April 9th 1881.

His Excellency Wooyeno Kagenori.
His Imperial Japanese Majesty's
Acting Minister for Foreign Affairs.

Sir,

Referring to our conversation
of this morning in relation to
the orders which Your Excellency
was pleased to say you deemed
it advisable to give to the Kenrei
of Kanagawa, to the effect that no
further action be taken by him
for the present or until an ar=
=rangement may be satisfactorily
made between Your Excellency's
Government and mine, touching
the storage by Frazer and Company
and the China and Japan Trading
Company in Yokohama of their
kerosene oil in their own Godowns
situated in the new concession.
I beg leave to further urge that
Your Excellency will be pleased to

especially

especially instruct the Governor that his Police must not interfere again as they have recently done with these American citizens when moving their own goods into their Godowns for safe Keeping.

I am especially informed that recently the Police did interfere and drive away the Japanese servants employed by the said American firm - the China and Japan Trading Company, when moving into their own godowns some boiled oil not Kerosene.

As the right is guaranteed to American citizens to employ and have the services of Japanese subjects without the interventions of Japanese officers, I cannot doubt that you will add to your order that no such interferance by the Police, shall again be permitted, until further advised by Your Excellency.

Accept the renewed

assurance of my highest
consideration.

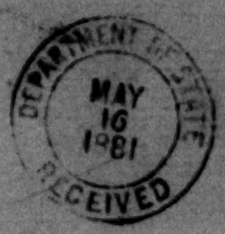
(Signed) John A. Bingham.

Referred to Mr. O'Connor. C.P.

Ack & file

O'Connor May 18th

No 1291.



United States Legation,

Japan.

Tokei April 18, 1881.

Mr Bingham

to the

How Secretary of State.

Subject.

O'Neil alias Rodgers refuses the conditional pardon and commutation offered by the President. Mr Bingham directs Mr Harris to make the necessary entry and order of record in the case, and is of opinion that O'Neil's request to be transferred to the United States should not be granted.

Enclosures.

1. Mr Van Buren to Mr Bingham, April 13/81.

2.

2. Mr Van Buren to Mr Brigham, April 16/18.

3. James O'Neil to Mr Brigham " "

4. Mr Brigham to Mr Harris " 18 "

No 1291.

United States Legation,
Japan,
Tokei, April 18, 1881.

How James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

Referring to Department Instruction No 574, in which your honorable predecessor enclosed the warrant of the President for the commutation of the sentence imposed upon James O'Neil alias James Rodgers, as reported in my No 1225 of the 21st of December last, I beg leave to say that, in accordance with that Instruction and with what I supposed to be the requirements of law, on the 14th instant I enclosed the said warrant to Mr Consul General Van Buren, who has

the

the custody of said O'Neil imprisoned in the United States Consular jail at Kanagawa, and directed that the Consul General would deliver said warrant to the prisoner, and acquaint him of its contents, and take his written acknowledgment of the delivery of said warrant and of his acceptance of the same and of the condition therein stated, duly endorsed thereon and signed by the prisoner, viz: that said O'Neil alias Rodgers accepts said pardon on condition "that he undergoes "imprisonment in the prison for American "convicts at Kanagawa (Yokohama) "Japan, for the term of ten (10) years "commencing on the 8th day of March 1880."

In thus requesting the delivery to and the acceptance by the prisoner of the pardon with its conditions, I followed the law as pronounced in the case of

the

the United States versus Wilson (10th Curtis' Decisions of the Supreme Court page 438) in which the learned Chief Justice Marshall delivered the opinion of the Court and said "a pardon is "a deed to the validity of which "delivery is essential, and delivery "is not complete without acceptance". This gracious act of mercy by the President, which I had favored in my No 1225 and also in my No 1105, was to my regret rejected by the prisoner, as shown by Mr Van Buren's despatch to me of
1/1291 date the 13th instant, a copy of which is herewith. I also endose a copy of Mr Van Buren's private
2/1291 note to me, together with a copy
3/1291 of O'Neil's offensive letter therewith transmitted to me.

The

The warrant of conditional pardon and commutation of sentence has been returned to me in accordance with my request.

I have transmitted a copy of the warrant, duly authenticated, to our Vice Consul, Mr Harris, now acting at Kobe in General Stahel's absence, and have directed him to enter the commutation as granted by the President of record in the case in that Consulate, and have further directed him to make an order upon the record that the sentence in that case heretofore pronounced by Mr Consul Stahel is commuted by order of the President to the term of ten years from and after the 8th day of March 1880, on condition that said James O'Neil alias James Rodgers shall undergo imprisonment for said

term

term of ten years from and after said day in the prison for American convicts at Kanagawa, Japan. I have further directed that a copy of said entry be forwarded by Mr Harris to the Consul General, who has the prisoner in charge upon the commitment of Mr Consul Stahel. I have the honor to enclose herewith a copy of my note to Mr Harris. (Please note section 5330 United States Revised Statutes).

It seems to me that this prisoner, who refuses the privilege of daily exercise in the open air for his health, and declares his trial and conviction to have been "null and void", should not be favored with what he demands, a transfer to the United States, where in that event the question will doubtless be raised whether, as stated by Mr Attorney General Williams in his opinion of February 4, 1875, the prisoner, if transferred to the

United

United States, could be legally held there in the absence of an Act of Congress authorizing the transfer to and the imprisonment in the United States of persons convicted of crimes in our Consular Courts in Japan. (See Opinions of Attorneys General, Volume 14, pages 522-524). Allow me to say that I never saw this opinion of Mr Attorney General Williams until a friend kindly loaned said volume 14 to me.

As there is no such statute it seems to me that O'Neil should undergo the imprisonment for the reduced term of his sentence where he is. His crime was marked by great atrocity; his trial and conviction were in accordance with the law and evidence, and his health cannot suffer materially if he will avail himself of the privilege of open air exercise which has

been

be tendered to him by the Counsel General.

I have the honor to be,
Sir,
Your obedient servant,
Wm. A. Rueyhead

No. 1291. Enclosure 1.

No. 5221. United States Consulate General
Kanagawa Japan
April 13th 1881.

Hon. John A. Bingham
United States Minister
Tokio.

Sir:

I beg to acknowledge receipt of your No. 1059. covering the warrant of Conditional Pardon extended by the President of the United States to James O'Neil, alias James Rodgers, a prisoner confined in the Jail of this Consulate General, under a sentence of twenty years, passed upon him by the United States Consular Court at Osaka and Kiogo, on the 8th of March 1880.- and a copy of said warrant, duly attested.

In accordance with your instructions I have this day read to the prisoner the said warrant of Conditional Pardon, and the endorsement he was expected to sign if

if he should accept the same and I enquired if he fully understood the whole matter and whether he was prepared to accept the said Conditional Pardon and sign said endorsement.

In reply he stated that he fully understood but that he declined to accept the conditions of the Pardon, or sign the endorsement for the reason, that the imprisonment was to continue to be in the Jail of this Consulate General instead of in some Prison in the United States. He complains that he gets no exercise here and has nothing to do and is losing his health.

I have on more than one occasion sent word to him that he should have exercise every other day, or every day if his health required, but he has declined it and I renewed the offer to day.

It is not to be denied however that this Consular Prison is no proper place in which to confine a man on a long sentence, and I have so informed the Department on several occasions, and have asked that, if possible, this man, O'Neils imprisonment might be had in some prison at home. There is no room or ground here for exercise and no way of having it except outside, under the guard of the Jailor - and besides, the climate of Yokohama is almost unendurable even to those who take the utmost precautions against illness - frequent short absences from the place being absolutely imperative. That it should seriously affect the health of Prisoners confined here for any length of time, I consider certain.

It is hardly necessary to add that none of these reflections have been conveyed by me to the prisoner, but

but they are my convictions, and I have felt it my duty to state them to you in this connection.

Please advise me what disposition to make of the Conditional Pardon and Copy.

I have the honor to be
Sir.
Your obedient Servant
Thos. B. VanBuren
Consul General.

No 1291. Enclosure 2.

United States Consulate General
Kanagawa Japan.
April 16th 1881.

My dear Mr. Bingham

Herewith
a note addressed to you by
the Prisoners O'Neil.

Yours very truly
Thos. B. Van Buren.

No. 1291. Enclosure 3.

Yokohama Saturday
April 16th 1881.

Dear Sir.

I received that commuted Sentence last Wednesday. of ten years in Kanagawa Jail.

I objected to any imprisonment in this jail, as that was all that document contained about my case. but when it comes to the merits of my case everything was absurd about it. and I should like to have a copy of the Record - the same as was sent to Washington. - for I know every word of it by heart and note, and I don't see how any learned gentleman can convict me on it. I will sign a transfer sentence of ten or twenty years any time - so that I can be near my friends -

omitting

omitting the trial and evidence
because they are null and void.

From your humble servant
and prisoner.

James O'Neil

No 1291.

Enclosure 4.

Copy.

No 1063.

United States Legation,
Tokei, April 18, 1881.

James Harris Esq
United States Vice Consul,
Osaka and Hiogo.

Sir:

Herewith I enclose an authenticated copy of the Presidents conditional pardon and commutation of the sentence pronounced by Mr Consul Stahel on James O'Neil alias James Rodgers, which condition is that he be imprisoned at Yokohama (Kanagawa) for the term of ten (10) years from and after the 8th day of March 1880.

I have to request that you will enter this commutation of sentence upon the original

record of the case remaining in
your Consulate as follows: — —
" Whereas the President of the United
" States of America has by his
" warrant of conditional pardon
" commuted the sentence heretofore
" pronounced in the foregoing case
" upon James O'Neil alias James
" Rodgers in the words following,
" to wit: 'I, Rutherford B. Hayes,
" 'President of the United States
" 'x x x do hereby commute the
" 'said sentence to imprisonment
" 'for the term of ten (10) years
" 'from the said 8th day of March
" '1880 in the prison for American
" 'convicts at Yokohama (Kanagawa)
" 'Japan, for the term of ten (10)
" 'years commencing the 8th day
" 'of March 1880' — Signed R. B.
" Hayes, on the 2d day of March
" 1881 — whereof it is hereby
" ordered that the term of
" imprisonment of said James
" O'Neil alias James Rodgers

"in the United States prison
"at Kanagawa shall be for
"ten years only from and
"after the 8th day of March
"1880."

You will enter this of
record and transmit a
copy of said entry to the
Consul General at Kanagawa,
and also inform me of your
action in the premises.

I am, Sir,

Your obedient servant

Jas. A. Bingham

Ask & furnish Mr. with the books requested.
J. F.

No. 1292

Ans'd. Books &c. sires will be furnished June 20. 1881. Mr Cridler

W Adee

United States Legation

Tokei, Japan, April 18 1881.

Mr. Brigham

to the

Hon. the Secretary of State

Subject.

Mr. Brigham requests that certain volumes of the Opinions of the Attorneys General and of the Reports of the Supreme Court be forwarded to the Legation in Tokio to be kept in the Library there.

No. 1292

United States Legation

Tokei, Japan, April. 16, 1881.

Hon. James G. Blaine.

Secretary of State

Washington.

Sir:

I beg leave to say that the Opinions of the Attorneys General of the United States have been furnished to this Legation only from Vol. 1 to Vol. 13 inclusive. I therefore most respectfully request that the subsequent volumes issued to this date may be forwarded to this Legation to be placed in the Library thereof and there kept as the property of the United States.

Permit me further to say that as the Reports of the Supreme Court supplied to the Library of this Legation by the Department include all the reports down to

and including the 17th volume of Wallace and no more, it is very necessary that the Reports of said Court subsequent to the 17th of Wallace be also furnished to the Library of this Legation. You will please observe that the 14th volume of the Opinions of the Attorneys General referred to by me in my No. 1291 was furnished to me for reference a few days ago by a friend. Please refer to Department Instruction No. 51 enclosing the list of books furnished by the Department in 1874 to this Legation.

I have the honor to be

Sir,

Your obedient servant

Jno A. Bingham

1293 Received & approved May 19, 1881 Mr. Cridler Acts approve C.B.

Wade

United States Legation,

Tokei, Japan, April 8, 1881.

Mr. Bingham

to the

Honorable the Secretary of State.

Subject

Mr Bingham informs the Secretary of State that on request of H. I. the Chinese Minister he placed the United States flag at half-mast in respect to the memory of the Empress Dowager of China just deceased.

Enclosure.

Mr Bingham to Mr Ho, April 17, 1881.

No 1298

United States Legation,
Tokei, Japan. April. 18. 1881.

Hon. James G. Blaine,
Secretary of State,
Washington.

Sir:

On the 16th instant I was verbally informed by the Interpreter of the Chinese Legation of the death of Her Majesty the Empress Dowager of China; and that His Excellency Mr. Ho-yu-Chang desired that our flag should be placed at half-mast which I caused to be done. And having received on the 17th instant the note of His Excellency formally communicating the fact of the decease of Her Majesty the Empress Dowager I addrep to him a reply a copy

of which I have the honor to enclose

I have the honor to be

Sir,

Your obedient servant

Mr A. Bingham

No 1293. Enclosure.

No. 1062. United States Legation

Tokei Japan April 17th 1881.

My dear Colleague,

I have the honor to acknowledge the receipt on this morning of your note of the 16th in which you acquaint me that on the 8th instant Her Majesty the Empress Dowager of China departed this life.

Upon receiving information of this calamity to Your Excellency and Your Government and people, one yesterday as verbally requested by your Interpreter, I placed the Ensign of the United States at half-mast and will continue in compliance with your expressed wish to display the same in like manner for three successive days in respect for the memory of the deceased.

With

With highest regard I
am my dear Colleague.

Yours very truly
(Signed) John A. Bingham.

His Excellency
Ho-Ju-Chang
His Imperial Chines Majesty's
Minister at Pekin.

No. 1294.

United States Legation

Yokei, Japan, April 18, 1881.

Mr. Brigham

to the

Hon. the Secretary of State.

Recd by
APM

Subject.

Mr. Brigham acquaints the Hon. Secretary of State that he has forwarded to Mr. W. G. Furbur Exequatur and certificate of appointment to act as Vice Consul.

No. 1294.

United States Legation,
Tokei, Japan, April, 18 1881.

Hon. James G. Blaine.
Secretary of State.
Washington.

Sir:

Referring to Instruction No 559 of your honorable predecessor I have the honor to acquaint you that I have received from His Imperial Japanese Majesty's Government the Exequatur for which I made application duly recognizing Mr W. G. Furbur iii the quality of United States Vice Consul and have forwarded the same together with the certificate of his appointment to him through the United States Consul General

at Kanagawa.

I have the honor to be

Sir,

Your obedient servant.

M. A. Bingham

Ask

File

No. 1295

made

United States Legation.

Tokei, Japan, April 18. 1881.

Mr. Bingham

to the

Hon. the Secretary of State.

Subject.

According to Instruction No. Bingham tenders to the Japanese Government the thanks of the President of the United States for the voluntary public manifestation of good will towards the United States which it pleased His Majesty to make to Mr. Bingham as reported in his No. 1213.

Enclosure.

Mr Bingham to Mr Inouye. Feb. 24/81.

No. 1295.

United States Legation,
Yokei, Japan, April 16, 1881.

Hon. James G. Blaine,
Secretary of State,
Washington.

Sir:

In accordance with Instruction No. 547 I addressed to His Excellency Mr. Inouye the Japanese Minister for Foreign Affairs a communication (a copy of which is herewith) conveying through His Excellency to His Majesty the Emperor of Japan the expression of the "very high appreciation of the President of the United States" and of your honorable predecessor of the "voluntary public manifestation of good will towards the United States" which it pleased his Majesty to make to me as reported

in my No. 1213, of date the 23d of Nov. last. I have also verbally conveyed the same message to His Excellency Mr. Iwakura in accordance with said Instruction.

I have the honor to be

Sir,

Your obedient Servant,

M. A. Peyton

No. 1295. Enclosure.

No. 1408. United States Legation
Tokei February 24th 1881.

His Excellency Inouye Kaoru.
His Imperial Japanese Majesty's
Minister for Foreign Affairs.
Sir:

Inasmuch as it pleased
His Majesty the Emperor on the
18th of November last, on the oc=
=casion of the garden party so
kindly given to the Diplomatic
Corps and others in the Imperial
grounds, to express to me his es=
=pecial regard for the government
of the United States of America and
for me as its representative, and
to cordially tender to me His
Majesty's "congratulations upon
" the election to the Presidency
" of the United States of the friend
" of General Grant and myself";
and as His Majesty was also pleased
to say that he "hoped my Govern=
"=ment would keep me in Japan",

I

I beg leave to acquaint Your Excellency that having deemed it my duty to communicate to my Government His Majesty gracious words of regard for my country and of congratulations as above mentioned, it has pleased my Government to instruct me to convey to His Imperial Majesty the very high appreciation which the President of the United States and the Honorable the Secretary of State of the United States have of this voluntary public manifestation by His Majesty of good will to the United States, and to further convey to His Majesty the reciprocal sentiments of friendship cher= =ished by my Government for "that of Japan," for whose wise and "enlightened ruler", I am instructed to say "only the best wishes for "his personal success and for

"the prosperity and happiness of
" his people are entertained by
" the Government and people of
" the United States of America."

Be pleased, I pray Your Excellency to convey this message of good will from the Government of the United States to His Majesty the Emperor of Japan.

I avail myself of this occasion to renew to Your Excellency the expression of my highest regard.

(Signed) John A. Bingham

Dupe to Treasury June 16. 1881
Copy to Navy June 16. 1881
Kept in our files
Mr Cridler

Made

No. 1296.

DEPARTMENT OF STATE
JUN 13 1881
RECEIVED

United States Legation,

Tokei Japan May 6th 1881.

Mr. Bingham,

to

The Honorable the Secretary of State,

Subject.

Japanese Lighthouses, Lightships, Buoys, and Beacons, for the year 1881.

Enclosure.

(1) Four (4) Copies "List of the Japanese Lighthouses, Lightships, Buoys, and Beacons."

No. 1296.

United States Legation
Tokei Japan May 6th 1881.

Hon. James G. Blaine,
Secretary of State.

Sir:

Herewith I enclose for your information four copies of the official "List of the Japanese Lighthouses, Light-ships, Buoys and Beacons" for the year 1881.

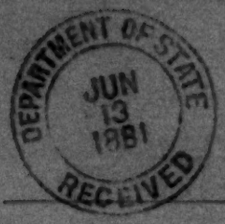
I have the honor to be,
Sir,
Your obedient Servant,
Mc A. Bingham

Ack & send to Bur of Statistics
C.P.

No 1297.

Wade

United States Legation



Tokei Japan May 6th 1881.

Mr. Bingham
to
The Honorable the Secretary of State.

Subject.
Customs of Japan for March
1881.

Enclosure
Duplicate copies "Monthly returns
of His Imperial Majestys customs
of Japan for the months of March
1881."

No 1297.

United States Legation
Tokei Japan May 6th 1881.

Hon. James G. Blaine.
Secretary of State.

Sir,

Herewith I enclose duplicate copies of the "Monthly return of His Imperial Majesty's Customs of Japan for the month of March 1881."

The abstract (page 10) shows that the value in gold yen of the exports of domestic productions for the month, was two million seven hundred and fifty eight thousand one hundred and eighty seven 20/100, and that the value of the imports of foreign productions for the month was two million four hundred and thirty eight thousand three hundred and

and

and one 65/100 gold yen. and that the exports were in excess of the imports to the amount of yen three hundred and nine thousand eight hundred and eighty five 64/100.

The import duties for the month was yen one hundred and eight thousand one hundred and forty nine 14/100 or about four and one half per cent ad valorem.

I have the honor to be

Your obedient Servant

M. A. Bingham

Letter to Mr. Hubbard; sent decyphered to him with letter forwarding it to him; letter copied in Miscellaneous Letters by Hunter 07th and June 15, 1881. Mr. Custer

Ack + forward inclosure C.P

Trade

No 1298.

United States Legation

Tokei Japan May 6th 1881.

DEPARTMENT OF STATE JUN 13 1881 RECEIVED

Mr. Bingham

to

The Honorable the Secretary of State.

Subject.

Mr. Hubbards request concerning Banks and Newspapers in Japan and Mr. Binghams action in regard thereto.

Enclosure.

1 Open letter to Mr. Hubbard enclosing translations of Japanese Banking laws and list of Foreign and Japanese Banks in Japan.

No 1298

United States Legation
Tokei Japan May 6th 1881.

Hon. James G. Blaine,
Secretary of State.

Sir,

On the first of February last I received a letter from Mr. H. P. Hubbard of New Haven Connecticut, in which he requested that I should obtain certain information concerning Banks and Newspapers in Japan, from this Government, and transmit to him through the Department for publication in his forthcoming work entitled "Newspaper Directory of the World."

In accordance with this request I addressed a note to His Excellency Mr.

Mr. Inouye under date the 7th of February acquainting him of the proposed publication and the desire to obtain the requisite information for insertion in the work.

On the 14th of February His Excellency enclosed to me a Japanese Report of the Banks of the Empire and of the Banking laws of Japan, but failed to furnish me with the list of Newspapers &c. stating in regard to Newspapers Periodicals and Magazines &c. he was unable at that time to furnish the same but adding that "I (he) shall endeavor at the earliest "possible moment to furnish the neces"sary statistics thereof."

I beg leave to transmit herewith the translation of the Japanese Banking laws and a list of the Foreign and Japanese Banks in Japan

Japan which with my open-
letter to Mr Hubbard I
respectfully request may be
forwarded by the Department
to his address New Haven Con-
=necticut.

I have the honor to be,
Sir,
Your obedient Servant.
Mo A. Bingham

Ack

File

Made

No 1299.

United States Legation.

Tokei Japan May 9th 1881.

DEPARTMENT OF STATE
JUN 13 1881
RECEIVED

Mr. Bingham.

to

The Honorable the Secretary of State.

Subject.

Sir. Edward Thornton's report to his government concerning the measures submitted to Congress for assisting the shipping interests of the United States.

Enclosure.

Extract from "Japan Daily Mail" of the 5th instant.

No 1299.

United States Legation.

Yokei Japan May 9th 1881.

Hon. James G. Blaine.

Secretary of State.

Sir,

Herewith I beg leave to enclose for your information an article which appeared on the 5th instant in the "Japan Daily Mail" an English Journal published in Yokohama, and which as you will observe is another exhibition of the paternal ward and watch which Great Britain keeps over the interests and legislation of the United States of America.

Sir. Edward Thornton having communicated - as is stated - to his Government a report of the measures submitted to our Congress for settling the

the shipping of the United States, the document has been published as a parliamentary paper. Portions of this are reproduced here, doubtless, to acquaint Japan and other nationalities in the East of the decadence of our mercantile marine, of the ruinous results of our navigation laws, and finally, as an argument against "the protective policy of the United States."

As Great Britain by a demonstration of force in these waters constrained Japan to surrender by the Convention of 1866 her right to imitate our example by laying and collecting discriminating duties upon foreign imports, it is doubtless considered highly essential to publish such articles as the enclosed to advise His Imperial Japanese Majesty's Government that no further demand should be made for such a revision of the Convention of 1866 as would give

to

to Japan the right which every western State claims and asserts for itself to wit: to regulate her own commercial affairs and protect her own industries.

I have the honor to be,

Sir.

Your obedient servant.

Wm. A. Bridgman

1299. Enclosure.

Extract from the "Japan Daily Mail" of the 5th of May 1881.

Sir Edward Thornton, Her Majesty's Minister at Washington, has supplied to his Government a report on the measures submitted to Congress for assisting the shipping interests of the United States. This document has been published as a parliamentary paper. There has been no actual legislation on the subject, as none of the bills proposed in the late Congress were allowed to progress; yet individual suggestions and comments on a matter which is of paramount importance to the commercial well-being of the Republic, command special interest. Among these, according to the *Economist*, an extract cited by His Excellency from the "Congressional Record" of a speech by Mr. Beck, of Kentucky, on moving a resolution that all provisions of law which prevent American citizens from registering, as American ships, vessels purchased abroad, is most valuable, both as a demonstration of the evil effects of the American shipping legislation, and as an argument against the protective policy of the United States. "The navigation laws, Mr. Beck shows, handicap the American shipowner by refusing to allow him to enter the contest for trade in the free ocean highways of the world unless he pays twenty per cent more for his ships than his competitors pay for theirs, and the result is that the American flag is being gradually driven off the seas. The rapid decadence of the foreign shipping trade of the States is shown in the following statement of ships and barques built in the United States:—In 1855, 381; 1856, 306; 1878, 81; 1879, 37. And nothing short of the granting of liberty to American shipowners to buy their ships in the cheapest market, and the admission into the States, duty free, of all ship-building material, will, Mr. Beck maintains, suffice to build up the American mercantile marine. The speech altogether is a most able one, and well deserves the prominence given to it by its publication in the present form."

Ask Agriculture to inform Dept of Agriculture C.P.

Comm. Agriculture informed June 17. 1881 Mr. Cutler

Made

No 1300.

United States Legation.

Tokei. Japan. May 9th 1881.

Mr. Bingham.

to

The Honorable the Secretary of State.

Subject.

The establishment of a Department of Agriculture and Commerce in Japan.

Enclosure.

Translation of Proclamation of the establishment of a Department of Agriculture and Commerce in Japan.

No 1300.

United States Legation
Tokei Japan May 9th 1881.

Hon. James G. Blaine.
Secretary of State.

Sir,

Herewith I have the honor to enclose a translation made by Mr. Thompson Interpreter to this Legation of a Proclamation issued on the 7th instant by His Imperial Japanese Majesty's Government for the establishment in this Empire of a Department of Agriculture and Commerce.

The translation is made from the official copy which His Majesty's Minister for Foreign affairs was pleased to transmit to me.

I have the honor to be, Sir
Your obedient Servant.
Wm. H. Bingham

No. 1300. Enclosure

Translation

No 21.

Proclamation is hereby made that a Department of Agricultural and Commercial Affairs has been established.

Sanjo Sanetomi
Prime Minister.

April 7th 1881.

Acted June 15, 1881. Mr Crittenden This cannot be done as the Dept has not the authority to make the Act retroactive A.P.

No 1301.

To Aden

United States Legation
Tokei Japan May 10th 1881.

Mr. Bingham.
to
The Honorable the Secretary of State.

Subject.

Remuneration for Mr. Stevens as Chargé d'Affaires ad interim, from the 26th day of October 1878. to the 20th of May 1879 inclusive. less the amount actually paid him as Secretary of Legation for the same period.

No 1301.

United States Legation
Tokei Japan May 10th 1881.

Hon. James G. Blaine
Secretary of State.

Sir,

I beg leave to call your attention to the fact that during my absence on leave to visit the United States in 1878-1879 Mr. D. W. Stevens, Secretary of this Legation acted as Charge d'Affaires ad interim to wit: from and after the 26th of October 1878 to the 20th of May 1879 inclusive, in pursuance of the 44th paragraph of Personal Instructions and that by the provisions of said paragraph he was entitled upon report of such service made to the Department and upon receipt

receipt of authority from the Department to that end, to draw for compensation as such Charge d'Affaires ad interim in lieu of any other compensation for the period of said service, during my absence from my post, at the rate of five hundred dollars per month- that is to say at the rate of fifty per cent. of the salary allowed by law to the Minister of this Legation.

Referring to Mr Stevens dispatch to the Department No. 73 of date the 16th of May 1879- you will please note that Mr. Stevens acquainted the Department of such service during my absence, and requested authority to draw for compensation as Charge d'Affaires ad interim for the period of my said absence.

Your honorable predecessor in reply

reply to this application of Mr. Stevens - (Instruction no. 437 of date the 12th of June 1879.) declined to grant the request as made by Mr Stevens. assigning as the reason for declining it, that no appropriation had been made for the compensation of Charges "during the present and coming fiscal "year, and that the permanently "prohibitory clause forbidding the "payment of other compensation than "the salary attached to the office held, "remained unrepealed". It is further to be noted, that the Honorable the Secretary of State in this Instruction stated that directions had been sent to Messrs Martin Rose and Company "the London Bankers," to charge in "the usual manner, drafts drawn upon them for salary by Secretaries

of

" of Legation even while acting as "
" Chargè d'Affaires"

Mr Stevens did draw and receive under this Instruction salary as Secretary of Legation at the rate of twenty five hundred dollars per annum ($2500) for said period during which I was absent, and he acted as above stated, as Chargè d'Affaires ad interim of this Legation.

Inasmuch as the forty sixth Congress, (second session) Chapter thirty eight Statutes of the United States second session forty sixth Congress 1879-80, page 133-4" "Act making appropriations for the consular and diplomatic service" for the year ending the 30th of June 1881,"
" appropriated "for Chargè d'Affairs
" ad interim and diplomatic

officers

" officers abroad twenty thousand dollars,"
I respectfully submit for your
consideration whether it would
not be lawful for the Department,
under this provision, to authorize
Mr. Stevens to draw for said
compensation, at the rate afore-
-said, for the time he acted as
Chargè d'Affaires ad interim of
this Legation, that is to say at the rate of four
hundred dollars per month for
said period, less the amount
which was paid to him as Secretary
of Legation for the same period
as above stated,
If you should conclude that this
authority can be given to Mr. Stevens
to draw for said unpaid balance
of his compensation as such Chargè
d'Affaires ad interim to which
he is entitled by the said 44th
paragraph

paragraph of Personal Instructions,
- permit me to suggest that -
such authority might be given to
him upon his arrival at Washington
- next month - as he sails on leave of
absence for the United States - upon the
outgoing Steamer.

I have the honour to be,

Sir,

Your obedient Servant,

Jno A. Bingham

To Treasy June 24. 1881 McCulloch
Copy to Treas Dept + Int Interior.
2 Pres C.P
Wade

No 1302.

United States Legation.
Tokei Japan May 10th 1881.

Mr. Bingham,
to
The Honorable the Secretary of State.

Subject.
Sulphur exported free of duty.

Enclosure)
Proclamation (in translation) of
acting Prime Minister Arisugawa
Pamphlets regarding Export of Sulphur.

Noted in Pol 8

No. 1302,

United States Legation
Tokei Japan May 10th 1881,

Hon. James G. Blaine
Secretary of State,
Sir,

I have the honor to acquaint you that on the 9th instant I received a communication from His Excellency Mr. Wooyeno His Imperial Japanese Majesty's Acting Minister for Foreign Affairs in which he enclosed an official Proclamation of Prince Arisugawa Tarunito the Acting Prime Minister of His Majesty's Government declaring that Sulphur shall from and after the 15th instant be exported from this Empire free of duty.

Herewith I enclose a translation of

of the Acting Prime Ministers

Disclaimers

I have the honor to be,

Sir

Your obedient Servant,

Jno. A. Bingham

No 1302, Enclosure.

Translation

No. 27.

Proclamation is hereby made that Sulphur may be exported without duty from the 15th of May next.

In case duty is hereafter reimposed two months previous notice will be given.

Arisugawa Taruhito,
Acting Prime Minister.

April 29th 1881.

Ack. June 30. 1881.
M. Crosby

Ack + approve
C. B.
Order

No. 1303.

United States Legation.
Tokei Japan May 10th 1881.

Mr. Bingham
to
The Honorable the Secretary of State.

Subject.
Acknowledgement of receipt of telegram and Instruction No. 577. concerning storage of Kerosene oil &c.

warehouses erected by the Japanese Government for the storage of Kerosene oil at Yokohama, as reported in my Number 1259 of the 26th of February 1881.

In this connection I beg leave to call your special attention to my subsequent action in the premises as reported in my No. 1290, of date the 16th Ultimo in which you will please observe that I had for the reasons therein stated anticipated your telegram as to the Kerosene oil held by Frazer and Company, and the China and Japan Trading Company, then stored in their own warehouses by removing to this Government any former request that the Ken-rei (Governor) of Yokohama "should be suspended until a satisfactory arrangement should be obtained" in order to the

This

No 1303.

United States Legation.
Tokei Japan May 10th 1881.

Hon. James G. Blaine,
Secretary of State.

Sir,

I have the honor to acknowledge the receipt on the 8th instant of your telegram dated Manchester (America) "7th of 5th Month," instructing me to ask the suspension of "Order for the removal" of Frazers actual stock of Petroleum, and also, that as to Cargoes hereafter received, I shall "obey new rule"

I have the honor also to acknowledge the receipt of Instruction No. 577, of date the 29th of March last in which you were pleased to approve my final action with respect to the godowns or warehouses

this request went further and applied also to the oil en route for Yokohama and the parties named.

I thought it due to our government as well as to the parties in interest to renew this request in consequence of the representations of the Consul General and (Mr. Dobes of the China and Japan Trading Company,) as set forth in my said number 1290. and which representations were received by me after I had taken the action reported in my number 1257 and which you have been pleased to approve.

You will please note my further correspondence with His Excellency the Minister for Foreign Affairs, enclosed with my said number 1290.

I hope to be able to know in a short time what the real facts in the premises are as now reported by the

the Consul General and denied by this Government, as to the excess of charges for storage in the Government godowns, and also as to the inaccessibility of the godowns and difficulty as alleged of the transportation thereto of the Kerosene and also as to discriminations against Americans in the storage of Kerosene, outside of the Government Godowns in Kanagawa. Pending the final determination of these questions it would seem to be difficult to carry your instructions into effect as to the storage of the incoming shipments of Kerosene oil.

It must be conceded that the agreement of Mr. Consul General Van Buren and all the other Consuls at Yokohama to the place and rate

rate of storage of Kerosene oil
in the Government Godowns, as
reported in my number 1259
ought to have great weight upon the
determination of the issues now
made by Mr. VanBuren that the
charges of storage are excessive
and the place of storage inconvenient.

The Minister for Foreign
Affairs - as to the charge that
discrimination has been made
against Americans and in favor
of other holders of Kerosene,
insists, that only the same favor
was shown other holders - in the
matter of temporary storage of
Kerosene - that has been shown to
Messrs Frazer and Company and
the China and Japan Trading
Company.

It will be my endeavor to -

carry

carry out your instruction No 177
and your telegram of the 7th instant.

I have the honor to be

Sir.

Your obedient Servant.

Wm. A. Richmond

Send a copy of despatch to Navy Dept. Consular Bureau to mail Dept. July 8 1881 Wm Crowell

Copy of Catalogue & inclosures sent to Navy Dept. July 8. 1881 Wm Crowell

Mr. Babcock's letter of April 6. 1881. by Mr. Adee July 8. 1881 Wm Crowell

Mr Adee

C. P.

No 1304.

United States Legation.

Tokio Japan May 13th 1881.

DEPARTMENT OF STATE JUN 13 1881 RECEIVED

Mr. Brigham

to

The Honorable the Secretary of State.

Subject.

Exchange of Mercantile Signal lists.

Enclosure

(1) H. E. Mr Vroyens's reply to Mr Brigham's of date May 9th 1881.

(2) 3 copies of Catalogue of Mercantile Marine.

No 1304.

United States Legation.
Tokei Japan May 13th 1881,

Hon. James G. Blaine.
Secretary of State.

Sir,

Referring to circular Instruction
-number one of date December 28th 1880
I beg leave to say that the same
having been received on the 1st of February
last, I did on the 4th of that month,
in accordance with the request therein
made, address a note to His Excellency
Mr. Inouye His Japanese Majesty's
Minister for Foreign Affairs, making
known the wish of our government
to obtain at least three (3) copies of
the latest lists of the Signal letters
by which the Merchant vessels of
Japan are distinguished &c. and
also

also informing His Excellency that our Government would be glad to establish with that of Japan a regular and prompt exchange of the future publications" of the Signal lists above mentioned.

On the 9th instant I received from His Excellency Mr. Wooyeno in reply to my note, a communication dated the 9th instant (a copy of which is herewith) enclosing three (3) Copies of the general Catalogues published in March last of the Mercantile Marine of Japan, which I also have the honor to enclose herewith.

1/

2/

You will please observe that Mr. Wooyeno informs me in his communication, that at present, "no such lists are separately published by this Government, and further states that "as to the regular and prompt

prompt exchange of these lists
whenever published in future".

"His Imperial Japanese Majesty's
"Government willingly accepts
"the proposal made on the subject
"by the Government of the United
States" and that the same will be
sent through this Legation.

I have the honor to be
Sir,
Your obedient Servant
M. C. Kingdom

Copy

Translation

Enclosure / No 1304

No. 1003

Foreign Office Tokio
The 9th the 5th Month
the 14th year Meiji.

His Excellency
John A. Bingham
Envoy Extraordinary and Minister
Plenipotentiary of the U. S. A.
Sir;

I have the honor to acknowledge receipt of Your Excellency's despatch No 1305, bearing date the 4th February last, in which you inform me that You have been instructed by the Government of the United States to make application to H. I. M's Government for three copies of the latest lists of the signal letters by which Japanese Merchant vessels are distinguished & add that the Government of the United States would be glad to establish with H. I. M's Government a regular and

and prompt exchange of the future publications of the lists above mentioned for the mutual benefit of the two nations.

In reply I beg to acquaint Your Excellency that there being at present no such lists separately published I have hereby with to forward Your, according to Your request, three copies of the general catalogues of the mercantile marine of Japan, which were published in March the present Year, and that, as to the regular and prompt exchange of these lists whenever published in future, H. I. M's Government willingly accepts the proposal made on the subject by the Government of the United States, and we shall in future as published send them through Your Excellency to Your Government

I avail myself of this occasion
to renew to your Excellency the
assurance of my highest con-
-sideration.

Wooyno Lagenow
Acting for the Minister of
Foreign Affairs.

and prompt exchange of the future publications of the lists above mentioned for the mutual benefit of the two nations.

In reply I beg to acquaint Your Excellency that there being at present no such lists separately published I have the honor to forward You, according to Your request, three copies of the general catalogues of the mercantile marine of Japan, which were published in March the present year, and that, as to the regular and prompt exchange of these lists whenever published in future, H. I. M's Government willingly accepts the proposal made on the subject by the Government of the United States, and we shall in future as published send them through Your Excellency to Your Government

I avail myself of this occasion
to renew to your Excellency the
assurance of my highest con-
-sideration.

Wooyno Lagemon
Acting for the Minister of our
Foreign affairs.

DEPARTMENT OF STATE
JUN 13 1881
RECEIVED

United States Legation,
Tokei, Japan. May 19, 1881.

Hon. James G. Blaine;
Secretary of State,
Washington.

Sir:

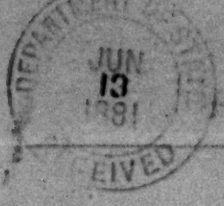
I have the honor to enclose herewith my account, (duplicate) for salary for the quarter ended March 31, 1881.

I have the honor to be,
Sir,
Your obedient Servant,
David Thompson,
Interpreter to U. S. Legation
Tokei, Japan.

Send dup extra copies in next bag.

No 1305.

Ask. say can do so. June 18, 1881 Mr. Curtis.



United States Legation

Tokei Japan May 14th 1881,

Mr. Bingham

to

The Honorable the Secretary of State.

Subject.

asking for several copies of Foreign Relations for 1880.

No. 1305.

United States Legation
Tokei Japan May 14th 1881.

Hon. James G. Blaine,
Secretary of State.

Sir.

I beg leave to request that the Department will be pleased (if convenient,) to furnish me several copies of the "Foreign Relations of the United States, for the year 1880, — one for the Library of this Legation, one for the Foreign Office of Japan, and one copy for myself and also one copy for the Secretary of this Legation.

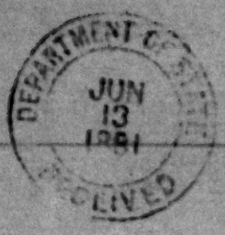
I have the honor to be,
Sir.
Your obedient Servant.
Wm. A. Burlingame

file

Ack - refer to Mr. O'Connor
C. P.

Mr Adee

No 1306.



United States Legation
Tokei Japan May 11th 1881.

Mr. Bingham
to
The Honorable the Secretary of State,

Subject,

The reported application of John H. Ross to Judge Sawyer of California for a writ of Habeas Corpus,- the refusal of the writ by said Judge, and the order that Ross be delivered into custody to be taken to Albany, and also the notification published in the Cincinnati Commercial of the 5th of April last that a writ will be sued

sued before the United States Court
at Albany New York to decide
the validity of the action of the
United States Consul General at
Yokohama.

No 1306.

United States Legation.
Tokei Japan May 14th 1881.

Hon. James G. Blaine.
Secretary of State.

Sir,

Referring to my numbers 1261. 1269, and 1275 and to my several other dispatches to the Department, there in mentioned, in relation to the case of John M. Ross, convicted of murder before our Consul General in Yokohama, and sentenced to death and also to the pardon granted to and accepted by said Ross, on the condition, that he should be imprisoned at hard labor during the term of his natural life in the Albany Penitentiary in the State of New York

I.

I beg leave to say that by the last mail I received the Cincinnati Commercial of date the 5th ultimo. in which appears the following - "Life "Sentence by a United States Consul: "San Francisco April 4th. John H. "Rose under life sentence to the Albany "Penitentiary for the murder of the "second mate of the ship "Bullion", "was to day delivered in custody to "be taken to Albany where a writ will "be sued before the United States Court "to decide the validity of the action "of the United States Consul at Yo- "-kohama who sentenced him."

I may be pardoned for suggesting that the United States Consul did not sentence Ross to imprisonment in the Penitentiary at Albany, and that he had no authority to pro- -nounce such sentence but did sentence him

him to death as required by the laws of the United States, and that the President pardoned him on the condition above stated which pardon and condition Rass accepted in writing.

I have in my dispatches herein referred to, given my views of this question, and have deemed it my duty to call the attention of the Department to the fact that it is of the first importance to all our commercial interests not only in Japan but in China &c. that the validity of our Treaties with these Countries and of the acts of Congress for the enforcement thereof should be maintained in our Courts as well as by the Executive, and especially to the fact that the question was first raised only last year, by British agents, and supported by

British

British officials here, and in Washington, that American seamen of British or nationality or any other nationality could not be lawfully held to answer even for the murder of our own officers upon our own decks when within Japanese waters, as a like question of equal moment to us and to our Commercial interests was raised in 1879 for the first time by British officials in Calcutta; that an American seaman of British nationality, who murdered an officer of an American Merchantman and on board thereof when upon the high seas could not be held to answer for his crime in accordance with our laws and the laws of Nations, to American tribunals — (Foreign Relations for 1879. pp pp 435-441.)

On both of these questions as I have

have shown in my dispatches, Great Britain has concluded herself in the most solemn form against these recent pretentions of her right to shield from lawful and just punishment upon trial and conviction in our Courts, natives of Great Britain who are guilty of the murder of American citizens on board of American ships when within the territorial waters of Japan, or upon the high seas, where, by our Treaty with Japan in the one case, and by the law and usage of nations in the other our laws are exclusive and supreme over all persons upon our decks whether they be officers, seamen or passengers, and whatever their nationality.

Please do me the kindness to inform me what may have been done

done in the case of Ross since his arrival in the United States under the Presidents order.

Permit me to add that it having been stated in the San Francisco papers of date 31st of March last that application on behalf of John M. Ross had been made to Judge Sawyer of the United States Circuit Court in that State for a writ of Habeas Corpus.

I infer from the above publication in the "Cincinnati Commercial" of the 5th of April last that Judge Sawyer denied the writ of Habeas Corpus in the case as he had before denied the application for a writ of Error in the case as reported in my Number 1221. and referring to which Mr. Evarts in his Instructions to me Number

566

566 congratulates me on this termination of the question and approval of my views as embodied in my Number 1155- to which with its Enclosures, and also to my Number 1275- I especially and most respectfully ask your attention.

It seems to me proper to renew the suggestion made in my Number 1275, that the United States District Attorney at Albany New York be fully instructed by the Department of Justice in the premises, to the end that our District and Circuit Courts in that State may not in this case, wherein they have no appellate jurisdiction, and after Judge Sawyer's action in the premises, allow a writ of Habeas Corpus on the application of this convicted murderer Ross, and

contrary

contrary to all precedent attempt to reverse the judgment rendered in accordance with our law against Ross, and also to set aside our Treaties with Japan and to declare void the acts of Congress for the enforcement thereof.

I have the honor to be,

Sir,

Your obedient servant.

Wm A. Pinkham

File

No 1307.

United States Legation

Tokei Japan May 26th 1881.

Mr. Bingham

to

The Honorable the Secretary of State.

Subject

Receipt of Instructions.

No 1307.

United States Legation
Tokei Japan May 26th 1881.

Hon. James G. Blaine.
Secretary of State.

Sir.

I have the honor to acknowledge the receipt of Instructions numbered 578, 579, 580, and 581, respectively.

I have the honor to be.
Sir.
Your obedient servant.
Jno. A. Bingham

Asked June 23. 1881

Ack.

Made

No. 1308.

United States Legation,
Tokei, Japan, May 26th 1881.

Mr. Bingham
to the
Honorable the Secretary of State.

Subject

Storage of Kerosene at Nakamura (Ishikawa)

Enclosure

(1) Mr. Brunsen to Mr Shand dated May 3. 1881.

No. 1308.

United States Legation

Tokei, Japan, May, 26, 1881.

Hon. James G. Blaine.

Secretary of State.

Sir:

Referring to Instruction No. 577 in which you were pleased to approve my final action as reported in my No. 1259 with respect to the Godowns or Storehouses erected by the Government of Japan for the Storage of Kerosene oil I beg leave to acquaint you that on the 24th instant Mr. Payne on behalf of Messrs Frazer & Co. called upon me and said that they had been advised from home that a dispatch had been sent to me concerning the question of Storage to which I

replied that I had received your Instruc-
tion and that I wished him to say to Messrs
Frazer & Co. that in accordance with your
Instruction I would insist upon the
suspension of this Government's order
as to the Stock of Kerosene actually held
by the firm in their own godowns, but
that as to future importations of Kerosene
by them or by the China and Japan Trading
Company I desired that they would Store
in the Government godowns pending any
negotiations with His Imperial Japanese
Majesty's Government on the subject of rates
of Storage &c.

Upon further enquiry I am inclined
to believe that the present Government
rate for Storage 1 cent per month
per can of Kerosene (10 gallons) is not
excessive and am satisfied that the
Government godowns are conveniently
accessible from the sea by canal.

though all the Consuls (Mr. Consul General Van Buren included) agreed to and approved of the Regulations of 1877, declaring Kerosene to be inflamiable and when held in large quantities dangerous, and that both the place and rate provided for the storage thereof by this Government were satisfactory, (See my No. 1257.) I was surprised to receive on the 21st instant from Mr. Consul General Van Buren a further despatch enclosing a copy of a letter addressed by him to Mr. Shand of date the 3d inst by which despatch it appears that the Consul General had been invited to a meeting of the Board of Consuls on the subject of the Storage of Kerosene in the Government Godowns and that the Consul General did not attend

the meeting but in anticipation of it addressed Mr. Shand Secretary of the Yokohama Fire Brigade the letter dated the 3d. instant (a copy of which is enclosed.) It is to be noted that Mr. van Buren says to Mr. Shand. "the Board of Consuls as such have nothing to do with the question", - that "all the Consuls were of opinion that some such accomodation should be furnished" as was provided at their request by the government in the erection at great expense of the godowns at Nakamura (Ishikawa) and which have since been greatly enlarged furnishing storage room for all the kerosene now on hand or en route to Yokohama as this government alleges.

1/3 08

It is certainly somewhat singular after Mr. van Burens former action in the premises in cooperation with all

the Consuls as reported to you in my No. 1259 that he should now conclude that the Consular Board as such "have nothing to do with the question" of storage and that he should also conclude that the Nakamura (Ishikawa) Godowns are inconvenient and the charges excessive and that all his "experience and observation has lead him to the conclusion" that the storage of kerosene within the foreign settlement is not dangerous, but if such storage within the Settlement were dangerous he would deem it his duty by every means in his power to have the danger abated". The spirit and language of this letter of Mr. Van Buren is to be regretted inasmuch as it assumes that this Government has not the right so clearly acknowledged in his agreement of 1877 to require the storage in large quantities of Kerosene &c. outside of the settlement, but that each Consul, Mr. Van Buren included has

the right to determine that question for himself! — I concur with Mr. Van Buren that neither he nor any other Consul has any thing officially to do with this question save to bring it to the notice of the Diplomatic Representatives here of their respective governments. Equally untenable is Mr. Van Burens present contention that because a temporary privilege for one year was allowed by this Government to Frazer and Co. and the China and Japan Trading Co. to store kerosene on the lots in the new Concession and which privilege they petitioned might be renewed in 1880 which renewal this government refused nevertheless, because they subsequently purchased the said lots in the Concession at a public sale from the Government they have the vested right to continue to store kerosene thereon and also for that matter gunpowder dynamite &c without the leave and against the

express orders of this government!
It is difficult to see if this pre-
tension is sustained why every
holder of lots by purchase from this
Government may not in like
manner defy His Majesty's orders,
and store in each and all of their godowns
in the settlement burning oils and ex-
plosives to the great damage and it
may be distruction of life and property
in that port.

I may as will say that the British
Government has without hesitation
submitted to the authority of this Gov-
ernment as to the storage of both dynam-
ite and other explosives and also of Kerosine
which are the only imports so far as I
know as to the storage of which this
Government has ever made any
question. To day I shall notify

in writing Frazer & Co. and the China and Japan Trading Company as I have already verbally notified them to observe as to future shipments of kerosene to Yokohama the Storage regulations of this Government in accordance with your Instruction to me. It is due to myself to say that if I had been notified at the time of Mr. Van Buren's correspondence with Mr. Heard dated the 3d. instant I would sooner have brought it to your notice, but as the Consul General gave me no notice of it until the 21st. instant by his dispatch of the 20th. instant with which he enclosed this letter I avail myself of the first mail since its receipt to lay it before you.

I have the honor to be,

Sir,

Your obedient Servant.

Wm. A. Burghaus

Enclosure (1) in No 1308.

Copy

No 5-250.

United States Consulate General
Kanagawa (Yokohama) Japan
May 3rd 1881.

Mr. J. S. Shand Esqr.
Hon. Secretary & Treasurer,
Yokohama Fire Brigade.

Sir,

Inasmuch as the owners of the oil godowns, referred to in your official communication to the Board of Consuls, under date the 22nd ultimo, are American firms and Americans are the principle recipients of Kerosene oil at this port, I have thought it best without waiting for the meeting of the Board of Consuls, who, as a board, have nothing to do with the question, to respond to your committee and express my views upon the subject of your communication.

At the time

of

of the erection of the Takanawa godowns there was no proper accommodation in Yokohama for the storage of Kerosene, and all the Consuls were of the opinion that some such accommodation should be provided. Accordingly the Kenrei agreed to the erection of the buildings at Ishikawa, and the Consuls expressed their intention of urging upon their respective citizens and subjects the propriety of storing their Kerosene in such buildings.

These requests were almost, if not quite, universally acted upon by foreigners in Yokohama, until it was found that the Ishikawa godowns were utterly insufficient to accommodate the large quantities of the oil accumulating at this Port; and merchants were put to the greatest inconvenience and expense in consequence.

This state of things continued for

for a long time, and it was only after the most strenuous efforts upon my part, finally assisted by my fellow Consuls and by our respective Ministers at Tokio, that permission was obtained to have ground and erect the godowns you now complain of. Afterwards, the owners of the oil purchased the lots and the storage has continued until now, at an expense of about one-sixth the same storage costs at Ishikawa.

The Kerosene, thus stored, is insured without difficulty, the godowns are isolated, surrounded on all sides by wide streets, and situated near to a broad canal.

The Ishikawa godowns, it is generally believed, are the property of Japanese subjects, and not of the Government. They are at considerable distance from the shipping, and the storage charges are excessive.

I have
been

been thus particular in explain-
-ing to you the facts connected
with the storage of which you
complain, in order that you
may understand my attitude
of opposition to any interference
with the clear right as I maintain,
of the American merchants referred
to, to continue the storage of
Kerosene in their own godowns.

The Japanese author-
-ities, for some time past,
have insisted upon the removal
of the oil from these godowns
to those at Ishikawa, and the
utter cessation of storage any-
-where else than at the latter-
place, and have even had the
audacity to issue orders to that
effect. A correspondence
is now in progress, as to the
matter, between the Japanese
authorities, myself, the American
Minister, and the Government,
and I regret that your associates

has

has thought fit to express an opinion upon the subject pending the controversy.

That opinion is based, as I understand, upon the idea, as alleged by you, that the storage of Kerosene within the limits of the Foreign Settlement is a continual source of danger.

If this were indeed, so, I should deem it my duty to endeavor, by every means in my power, to have the danger abated. But all my experience and observation lead me to a contrary conclusion, and I therefore dispute your proposition in its entirety: And, before feeling called upon to take any action in the premises, must request you to afford me some convincing proof of its correctness, — Kerosene is carried across the ocean at as low, if not a lower, freight and insurance than most other goods.

J.T.

It comes here in air tight tin cases. No instances of fire, caused by its storage, have ever been known in Yokohama.

It is exceedingly difficult to set on fire. When burning, it produces no cinders, and therefore, is less dangerous while on fire than any other substance capable of burning - save explosives, and it has been demonstrated that, even when set on fire, the fire, after consuming the wooden boxes in which the tins of oil are carried, has exhausted itself without burning the oil and without communicating to surrounding property.

Under these circumstances I must continue to defend the rights of my fellow citizens, until convinced that my position is untenable.

I am,

Sir,

Your obedient servant.
(Sgd) Thos. B. Van Buren
Consul General.

Made

No. 1309.

United States Legation.
Tokei Japan May 26th 1881.

Mr. Bingham
to
The Honorable the Secretary of State.

Subject.
Telegram purporting to be from St. Petersburgh, concerning recall of all Russian Ministers abroad.

Enclosure
1 Copy of Mr. Thompson's translation of telegram.

No 1309.

United States Legation.
Tokei Japan May 26th 1881.

Hon. James G. Blaine.
Secretary of State.

Sir,

Herewith I beg leave to enclose
1/1309 for your information a translation
made by Mr. Thompson Interpreter
to this Legation of a telegram pub-
-lished in a Japanese Journal of this
city on the 24th instant purporting
to have been sent the evening before
from St Petersburgh to the effect
that the Russian Government has
ordered its Ministers accredited
to various countries (there is no article
in the Japanese language) and there-
-fore I assume the telegram meant
to the various countries to report

at

at the Russian Capital for consultation upon Government reforms.

In a conversation yesterday with Mr. Struve the Russian Minister in Japan in relation to this extraordinary telegram; he said he had not seen it and said he had not received any notice as yet of that kind, and requested me to furnish him a copy of it - which I did this morning.

This may be a fabrication, but it may be a fact. — I do not suppose that the Russian Government would make so important a communication by telegraph. — If the Russian Govern=ment has made such order it would seem that Japan is indebted to the volunteer service of some Spy in Russia for the information, in advance of the official communication of the Russian Government to its

Minister

Minister at this Court.

I have the honor to be.

Sir,

Your obedient Servant,

Jn. a Bingham

Enclosure in No. 1309.

Copy

Translation

"According to a telegram sent
"from the Capital of Russia yester-
"-day morning the 24th instant the
"Government has ordered its
"Ministers accredited to various
"countries to return home in order
"to hold a great consultation on
"governmental reform.
"It is stated that the Gov-
"-ernment has determined to re-
"-move the Capital to Moscow, a
"step necessitated, probably, by
"the policy of the government.
"The number of persons arrested
"for complicity in the assassination
"of the late Emperor has reached
"three hundred — The mind of
"the people appears to be greatly
"disturbed"

The above is a translation of a paragraph that appeared in the "Yubin Hochi Shimbun" of the 24th instant under the head of "Foreign News" not as might be

be expected under the head of
"Telegrams"

David Thompson.

April 26th 1861.

For Mr. O'Leonnor's perusal
C. P.
File
O'Connor
Sept 14th 1881

No. 1310.

United States Legation

Tokei Japan May 26th 1881.

Mr. Bingham

to

The Honorable the Secretary of State.

Subject.

Ross case reviewed in the "Japan Weekly Mail" a British Journal.

Enclosure.

Extract from the "Japan Weekly Mail" of date May 21st 1881.

No 1310.

United States Legation
Tokei Japan May 26th 1881,

Hon. James G. Blaine.
Secretary of State.

Sir,

It gives me great pleasure to note in your Instruction No. 581 of date the 23rd of April last in relation to the case of the United States of America versus John M. Ross that you are pleased to say of my course in the final disposition of the case and also in the discharge of the duties that devolved on me during its progress in Japan meets with the unqualified approval of the Department.

The British agents here, are still busy with the case as I presume they are in the United States. Several articles on

on the subject have recently appeared in the Japan Mail - a British Journal published in Yokohama the substance of which was a reproduction of the views of Mr. Kennedy the British Chargè d'Affaires in Japan and of Mr. Victor Drummond the British Chargè d'Affaires in the United States both of which gentlemen were replied to by me in my numbers 1127 and 1228, respectively addressed to your honorable predecessor, - the former concerning Mr. Kennedy's dispatch and my reply thereto and the latter my reply to Mr. Drummond in accordance with the Instructions of the Department. — To these several replies made by me I have nothing to add nor have I anything to take therefrom. — I beg leave most respectfully to ask your

consideration

consideration of my reply to Mr. Drummond in my No. 1228.—

Of the articles which have appeared in the Japan Mail above referred to I beg leave to call your attention to an extract from the latest of said articles and which was published in the "Japan Weekly Mail" of date the 21st instant a copy of which extract is herewith enclosed.—

1/
1310

Having as I said fully answered all other suggestions of the astute writer of these articles in my replies to Mr. Kennedy and Mr. Drummond, I only notice this paragraph because the writer states that he has

"been informed on good authority
" that the State Department at Wash-
" -ington have by way of carrying
" the war into the enemys country"

had recourse to the argument that the

the British order in Council of 1865 (Sections 101–103) which empowers the British Consuls in Japan and China to judicially deal with British subjects for crimes by them committed within a British vessel, or within a Chinese or Japanese vessel or within a vessel not lawfully entitled to claim the protection of the flag of any State when within one hundred miles of the coast of China (or Japan) precludes by necessary implication the exercise of such jurisdiction "in the case of British subjects on "board of vessels that are so entitled" and to this argument the writer says the State Department had recourse "to show that the British "Courts in Japan would have no "jurisdiction to try Ross". All that follows on the part of the Japan Mail

Mail writer is but the gratuitous utterances of weakness and I might add imbecility. The conclusion of the writer that "rumor says that the "State Department at Washington "found themselves considerably em= "=barrassed in attempting to justify "the action of their representative in "this matter." Rumor in this case as usual was not a reliable authority in view of the very hearty approval of the United States Representative in Japan in this matter by your honorable predecessor and yourself. If the writer had been duly advised whereof he wrote he would have known that the British order in Council of 1865 = Sections 101–103 - to which he refers restricts the juris= =diction not merely of the British Consular Courts in Japan as to

Crimes

crimes committed by British subjects on ship board within one hundred miles of the coast of China [or Japan] but also restricts in like manner "any of Her Majestys Courts in China or Japan."

The writer either exhibits his own ignorance of public law or presumes that all others outside of Great Britain were ignorant thereof when he remarks that "this provision is "an enabling one extending the juris= "=diction of the Courts in certain cases &c"

The fact is as plain, as is the fact of the existence of the British Gov= =ernment, that Her Britanic Majesty by and with the advice of Her Privy Council by that order interpreted the existing Treaties of Japan and China to restrict her Majestys jurisdiction over her own subjects for crimes by them committed

ow

on shipboard either within the territorial waters of said Powers or on the high seas to such crimes as were by Her Majestys subjects committed "within a British " vessel, or a Chinese or Japanese " vessel or a vessel that could not " lawfully claim the protection of " the flag of any State." One hun=dred miles from the Coast of China or Japan by sea, is the high seas; and is it to be said that Japan and China by Treaty have given to Great Britain power to ex=ercise exclusive jurisdiction for crimes committed on the high seas and within one hundred miles of the coast of China or Japan by a British subject on board of an American Merchantman and in violation of American law and which vessel is at the time

lawfully

lawfully entitled to claim the protection of the flag of the United States of America. If this be so, then it follows that Japan and China by Treaty with Great Britain may repeal the law of nations as to the rights of nations upon the high seas not only within one hundred miles of the coasts of China or Japan but within the circuit of the globe. Verily the writers logic "sounds like unto a tale told "by an idiot". I note your remarks that the case is to be brought into the Supreme Court upon an application by the accused to that tribunal for a writ of Habeas Corpus. I will be greatly surprised if that high tribunal should allow the writ in this case, and still more surprised if the Court fails to follow all prece-dent from the foundation of the government

government and to sustain in its own language the separate grants of power to Congress which are "independent of and have no connection with the judicial powers of the United States" as the same are defined in the 3rd Article of the Constitution and restricted and limited by amendments 5: 6. and 7 of that instrument as I have abundantly shown in my former dispatches, I would count it an easy task to demonstrate all this before the Supreme Court of the United States and thereby establish the constitutionality of our laws for the enforcement of our Treaties in Japan and for the trial of all American citizens and American seamen of whatever nativity, before our

Consular

consular courts therein for all crimes by them committed in Japan and for their punishment according to American law upon conviction before said tribunals.

I have the honor to be,

Sir,

Your obedient Servant,

Mc A. Pruyn

Enclosure in No 1310.

Extract from the Japan Weekly Mail of date May 21st 1881.

The China and Japan Order in Council 1865 (§101 *et sqq.*) contains provisions which, so far as material, are to the following effect:—The Consular Courts are empowered to deal judicially with British subjects in China or Japan charged with having committed offences within a British vessel "at a distance of not more than one hundred miles from the Coast of China," or within a Chinese or Japanese vessel "or within a vessel not lawfully entitled to claim the protection of the flag of any State" at such distance as aforesaid. The limitation (so runs the argument) of this right of jurisdiction to British subjects on board vessels not entitled to carry the flag of any State, precludes, by necessary implication, its exercise in the case of British subjects on board vessels that *are* so entitled. That is perfectly true—only it does not affect the question at issue in the remotest degree. We have been informed on good authority that the Department of State at Washington have, by way of "carrying the war into the enemy's country," had recourse to this argument as showing that the *British* Courts in Japan would have had no jurisdiction to try Ross. But it is scarcely conceivable that those whose duty it is to advise that Department in such matters should have been so hasty as not to observe that this provision is an enabling one, extending the jurisdiction of the Courts in certain cases beyond its natural limits, and that the jurisdiction here given *only begins where the ordinary jurisdiction ends*, namely, at the limits of Chinese or Japanese territorial waters. The necessity for restricting this right to the case of ships not entitled to the flag of any State is very clear; for, in the absence of such a restrictive provision, the section would profess to confer upon British Courts a power properly appertaining to the Admiralty jurisdiction of foreign countries. That this section cannot possibly apply to territorial waters is made plain by another consideration also: the Courts already had, within such waters, all the jurisdiction here conferred and more also; so that to confer it here would be not only superfluous but absolutely inconsistent with the whole body of the order in which the section occurs.

Rumour says that the State Department at Washington found themselves considerably embarrassed in attempting to justify the action of their representatives in this matter. We can well believe it; because we conceive that action to have been opposed to principles of law recognized and acted upon by the United States Government. And if it be true that recourse was actually had by the Department of State to the argument just referred to, which Americans in in this country, otherwise well informed, not only believe in themselves but impute to their Government, we can understand that the embarrassment which had to go so far afield must have been great indeed.

DEPARTMENT OF STATE
JUL 5 1881
RECEIVED

No 1311.

United States Legation
Tokei Japan June 8th 1881.

Mr. Bingham
to
The Honorable the Secretary of State.

Subject.
Monthly returns of the Customs of Japan for the month of April 1881.

Enclosure.
Duplicate Copies - Monthly Returns of His I. M's Customs of Japan for the month of April 1881.

No 1311

United States Legation
Tokei Japan June 8th 1881.

Hon. James G. Blaine
Secretary of State.
Sir,

I beg leave to transmit herewith duplicate copies of the "Monthly Return of His Imperial Majesty's Customs of Japan for the month of April 1881."

Duplicates sent to Treasury

By the abstract of this report (p 10) it appears that the value of domestic productions exported during the month was yen 1,494,545-97/100 and that the value of foreign productions imported within that period was yen 2,559,269 85/100 showing an excess of imports over exports in value

value to the amount of yen 1,064,723 85/100. It also appears that the export of Specie and bullion during the month exceeded in value the import thereof to the amount of yen 600,000 in round numbers.

I have the honor to be,
Sir,
Your obedient Servant,
Wm A Bingham

Adee
Desh. to Japan
No. of this to Japanese
Leg. in country

Copy to Navy Dept. July 13. 1881. Mr. Credor.

No 1212 Acknl. & presented verbally July 13. 1881. Mr. Credor

Maidu

United States Legation
Tokei Japan June 8th 1881.

DEPARTMENT OF STATE
JUL 5 1881
RECEIVED

Mr. Bingham
to
The Honorable the Secretary of State.

Subject.

The arrival of Lieutenant Commander Green United States Navy and the facilities afforded him by the Japanese Government for the prosecution of his work.

No. 1212.

United States Legation
Tokei Japan June 8th 1881.

Hon. James G. Blaine.
Secretary of State.

Sir,

Referring to Department Instruction No 517 of date the 28th of June last and also to my No. 1172 concerning the duty assigned to Lieutenant Commander F. M. Green United States Navy to make the necessary astronomical observations at Yokohama and Nagasaki in Japan with a view of determining secondary meridians of longitude and directing me to request of this government that permission be granted to the Lieutenant Com=
=mander for the landing and temporary establishment

establishment of the instruments &c
and for the making of the necessary
observations it gives me pleasure to
say that upon the arrival at Yokohama
in April last of Lieutenant Commander
Green and his associates, I placed that
gentleman in communication with the
proper Ministers of His Imperial Japan-
-ese Majestys government who kindly
and promptly extended to the Lieuten-
-ant Commander every courtesy and
facility needful to enable him to
make the necessary observations at
Yokohama and Nagasaki, and
amongst other things placed at his
service the telegraphic lines between
the two points of observation for com-
-munication at night &c, and that
Lieutenant Commander Green thus
kindly favored by this government
has without delay entered upon
the

the work assigned to him and will doubtless bring it speedily to a most satisfactory conclusion.

I have the honor to be,

Sir,

Your obedient Servant,

Wm A Rhyburn

DEPARTMENT OF STATE
JUL 5 1981
RECEIVED

File Communication Aug 24 made

No 1313.

United States Legation,
Tokei Japan June 8th 1881.

Mr. Bingham,
to
The Honorable the Secretary of State,

Subject.

The case of John M. Ross.
and the position assumed by his
Counsel Mr Henderson to wit:
that Section 6 of the Treaty of
1858 restricts the jurisdiction
of the United States Consular
Courts to such crimes as Americans
may commit in Japan upon
the

the persons of Japanese subjects only. Mr Bingham also calls special attention to the final judgment rendered by the Consul General in this case on the 21st of June 1880. the record of which Mr Bingham reported to the Department with his No. 1155 Enclosure 2 - See also Mr Binghams 1143 to the Department.

No 1313.

United States Legation.
Tokei Japan. June 8th 1881.

Hon. James G. Blaine.
Secretary of State.

Sir;

Again referring to your Instruction No 581 in relation to the case of John M. Ross, I beg leave to say that I have been privately informed that Mr. Henderson the counsel for Ross withdrew his application in the United States Circuit Court of California upon a suggestion that the United States Circuit Judge of that district having heretofore decided that said Circuit Court had no appellate jurisdiction in the case might consider it his duty to refuse an Habeas Corpus

to

to review and reverse the judgment rendered in the case by the United States Consul General in Japan.

I am also informed that Mr. Henderson upon the application before the United States Circuit Court cited the 6th article of our Treaty of 1858 with Japan and insisted that inasmuch as that article provides for the trial of Americans by American Consular Courts in Japan for offences by them therein committed against Japanese, therefore Ross could not be held to answer for the murder of the 2nd officer of the American Merchantman "Bullion" when at an anchor in Japanese waters because the 2nd officer was not a Japanese subject. Nothing in my opinion could more strongly testify to the utter weakness of the claim made for Ross against the government than this attempt

to

to limit the jurisdiction of our Consuls in Japan over Americans guilty of crimes by them committed within this Empire to such crimes only as they should commit upon the persons of Japanese subjects! According to this logic Americans may in Japan murder each other and the citizens or subjects of all lands save the subjects of Japan with impunity - as it is admitted by this government that it cannot try an American for any offence whatever - and it must be also conceded that the tribunals of no other government than our own can try Americans for crimes by them committed within this Empire! In giving my reasons to the department for sustaining the jurisdiction of the United

United States in this case and for approving as I did the conviction of Ross in which the Consul General and the four associates who sat with him had concurred I cited Article 4 of our Convention of 1857 with Japan to wit: "that Americans
" committing offences in Japan shall
" be tried by the American Consul
" General or Consul and shall be
" punished according to American
" law." (See my No 1124 dated May 22nd 1880). This provision of the Convention of 1857 and all other provisions thereof were saved and incorporated in our Treaty of 1858 with Japan Article 12. as follows: "all the provisions of a
" Convention executed by the Consul
" General of the United States and
" the Governors of Simoda on the
17th "

" 17th of June 1857 are incorporated in
" this Treaty." (See Treaty of 1858.)
You will observe that Mr Townsend
Harris was the Consul General
of the United States who negotiated
both of these Treaties with Japan,
and that the Treaty of 1858
was ratified April 12th 1860-
and that thereafter, to wit: June
22nd 1860 - Congress passed the act
to carry into effect this Treaty with
Japan and provided that the
Minister and Consuls of the United
States in Japan be "fully empowered
" to arraign and try in the manner"
(in said Statute provided) "all citizens
of the United States charged with
offences against law committed [by
them in Japan] (Sec. 4084 United
States Revised Statutes 1878) and
also by Section 4086 provided
that

that the jurisdiction in both civil and criminal matters in Japan shall "in all cases be exercised
" and enforced in conformity
" to the laws of the United States
" which so far as necessary to execute
" such Treaty are extended over all
" citizens of the United States therein
" and over all others to the extent
" the terms of the [Treaty] justifies or
" requires" Here was the construction above stated by me asserted by the same Senate which ratified the Treaty and by the same President who approved both the Treaty and the act of Congress. The President and the Department have always construed the Treaty of 1858 as carrying with it and incorporating therein the 4th Article and all other provisions of the

Convention

convention of 1857. See Consular Regulations and Instructions for 1874 issued by President Grant and transmitted by Mr Fish for the government of United States Consuls p 103 paragraph 421, and appendix pp. 191-195 setting forth the Treaties of 1857 and 1858 as in full force.'

In view of the fact that Consul General Van Buren committed the error of pronouncing sentence upon Ross before I had approved the conviction to wit: on the 20th of May 1880- I called his attention to his mistake after I had to wit: on the 22nd of May 1880 approved the conviction of the prisoner and thereafter to wit: on the 21st of June 1880. the Consul General pronounced his final

Judgment

judgment or sentence in the case, I deem it well to call your special attention to the final judgment of the Consul General in the case and to his certified record thereof as reported by me to the Department in my No 1155 of date July 24th 1888. Enclosure 2. I have thought this important lest the original record only as reported in my No 1124 Enclosure 5. might be taken to be the final record and judgment.

I have the honor to be

Sir.

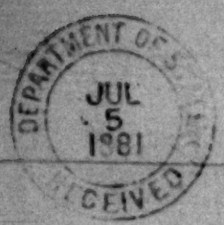
Your obedient servant.

Wm. A. Bingham

File

Made

No 1314



United States Legation
Tokei Japan June 8th 1881.

Mr. Bingham
to
The Honorable the Secretary of State.

Subject.
The recognition of Japanese law by the British Chargé d' affairs and the Heralds comments thereon.

Enclosure
Extract from the Japan Daily Herald of 7th instant.

No 1314.

United States Legation
Tokei Japan June 8th 1881.

Hon. James G. Blaine,
Secretary of State.

Sir.

I beg leave to enclose for
1/ your information a slip cut from
1314 the Japan Daily Herald of the
7th instant a British Journal
published in Yokohama in re=
=lation to the action of the British
Chargé d'Affaires in recognizing
a Japanese law in regard to
Pilots as binding upon British
subjects and the refusal of the
British Consul to respect the same
on the trial of a case recently had
before him against a British subject.

It is to me some satisfaction
that

that the British Chargé d'Affaires has recognized in this instance what I have always insisted upon with the approval I am glad to say of the Department that His Imperial Japanese Majesty's Govern=
=ment has the right under existing Treaties to regulate by law the internal affairs of this Empire to the extent of protecting life and property and that it is the duty of each Treaty Power represented at this Court to respect such laws except when they contravene a clearly expressed Treaty privilege, and also to enforce the same against its subject or citizen on all occa=
=sions. For this I have found my=
=self repeatedly assailed by the Herald and other British Journals published in Japan. Some of the abuse hitherto heaped

heaped upon me will it seems hereafter be showered upon the British Charge d' Affaires for offending in like manner and daring to acknowledge that the Japanese government has some rights which even Great Britain is bound to respect. You will no= =tice that this Editor with his usual "truculence announces that "not "an atom of power is vested in Mr "Kennedy (the British Charge) which "gives him authority to require "British subjects to observe Japanese "law as such."

I have the honor to be.

Sir.

Your obedient Servant.

Wm. H. Brigham

[Dollars for each offence."]

Enclosure in No 1314

The Japan Daily Herald.

TUESDAY, 7TH JUNE, 1881.

A Case of "How not to Do it."

THE petty case of HODNETT *vs.* BUTLER, heard by the Acting Assistant Judge on the 20th of last month, and dismissed by him, did not seem to call for any special comment, but the *Japan Mail* has found so much to say in reference to it, of H. B. M. *Chargé d'Affaires*, and of the Judge who tried the case, that a few words on the subject would seem to be not altogether unwarranted.

So far as the plaintiff HODNETT and the defendant BUTLER were concerned, the facts are simple enough. The plaintiff is a licensed pilot, and boarded the defendant's ship, the *Cyclops*, on her coming into this port, and tendered his services; but was told that they were not required. A person named HADDON, whom the plaintiff in his evidence described as "an habitual violator of the Pilotage Regulations," was on board, and apparently acting as pilot, which was denied by defendant. Subsequently the plaintiff, obeying the recommendation of the Japanese Board of Trade, brought a claim, under section 14 of the Regulations, against the master of the *Cyclops*, for 17 *yen*, for services tendered but unaccepted, which was dismissed by the Court, on the ground that no civil action could be brought under the section in question, but that a criminal suit could for the recovery of the fine leviable under it, and it was the only one that had been made British law in Japan by H. B. M. *Chargé d'Affaires*.

Here the matter seems to have rested, for though the plaintiff intimated his intention of at once following the Judge's ruling, so far as we know, no further action has been taken, the case being apparently dropped. It is not to be supposed that a pilot should have much acquaintance with law, but it might have been thought that the Home Department would have been better advised than to have been at the bottom of such a *fiasco*. There is no lack of foreign lawyers in the service of the Japanese Government, whose assistance might have been made use of, had any of them been consulted, which seems not to have been the case, or if it were, the advice given was unsound.

On looking into the subject, we find that the "amended Pilotage Regulations for vessels of foreign form and construction" were notified on the 9th November, 1878, and published in pamphlet form in the same month, by order of the Home Department. In November, 1879, Mr. KENNEDY, H. B. M. *Chargé d'Affaires*, under powers conferred on him by the Order in Council, adopted section 14, and notified it. The Regulation in question is as follows:—

"Any British subject who shall knowingly and wilfully contravene or infringe the provisions of the 14th Section of the Pilotage Regulations for Vessels of Foreign Form of construction, issued by the Japanese Government on the 9th day of December, 1878, whilst the same shall remain in force and form a part of the Municipal Law of Japan, shall be deemed to have committed an offence against this Regulation, and on conviction thereof by or before any of Her Majesty's Courts in Japan shall be liable to a penalty or fine not exceeding Fifty Dollars for each offence."

Now, nothing can be clearer from this, that the only regulation which has been made legally binding on British subjects by Mr. KENNEDY's legislative act, is the above mentioned section. The *Mail* seems to be surprised that the Bench should have given a judicial declaration to that effect; but law must be administered as it exists. A British Court has no power to enforce Japanese law, and it may be all very well for Mr. KENNEDY to say that British subjects "should observe and comply with" the Pilotage Regulations made by the Japanese Government; but if he fails, as he appears to have done in this instance, except in the case of the 14th section, to give legal effect to what the Japanese desire, however much he may wish to please them, cases based on infringements of other sections than the 14th cannot be sustained in a British Court.

The stern inflexibility of the administration of law can take no cognizance of what the *Mail* terms "a graceful act" on the part of Mr. KENNEDY, and we cannot see how the Acting Assistant Judge, who is accused of in "great part marring it" by his declaration in the case under review, could have decided otherwise than he did. The promulgation of the Regulations may be an evidence of that "judicious tact" which the *Mail*—which seems to be in the questionable and anomalous position of being equally in the confidence of the Government, and of the British Legation,—says "has distinguished all Mr. KENNEDY's dealings with the Japanese Government;" but it cannot be particularly pleasing to the Japanese to find that Mr. KENNEDY's facile complaisance proves to have but little practical value, because an egregious blunder has been made in giving effect to their wishes.

The *Mail* tells us that the adoption of these Regulations was one of those cases where the "instinct" of the diplomatist exerts itself; but if it be, as that newspaper says, that Mr. KENNEDY "adopted the very simple expedient of citing the regulations by their titles, and requiring British subjects to observe them,

Over

"*as enactments of the Japanese Government*" (the italics are the *Mail's* own), then all we can say is, that the expedient was a very "simple" one indeed, for not an atom of power is vested in Mr. KENNEDY which gives him authority to require British subjects to observe Japanese law, as such.

We fail to agree with the *Mail* when it expresses its regret that Mr. KENNEDY's "felicitous action,"—for such is the phrase it employs,—"should be to a great extent marred, and that, too, unnecessarily, by the case not being dismissed on other grounds." We think that if the Japanese Government were congratulating themselves upon the supposition that by the fiat of an accommodating Minister anxious to oblige, British subjects could be brought within the purview of Japanese law, the sooner it was undeceived the better; and the Acting Assistant Judge has acted with perfect propriety in giving the decision he did, as well as his reason for it. It certainly cannot be held to come within the scope of judicial functions to gloss over Ministerial shortcomings, and to give any other than a sound judgment, and why it was arrived at: for such a course would be a paltering both with truth and with law, and from which the innate "instincts" of the Judge seem to have guarded him. Conscious of rectitude, we think he may venture to provoke the frown of the *Mail*, play havoc with Mr. KENNEDY's exhibition of "judicious tact," and even disturb the "unqualified satisfaction" of the Japanese Government.

Asec

Copy to Treasury July 18. 1881. Mr. Carter

Telegram to Central Pacific R.R.Co. San Fr. & New York July 9. 1881 Mr. Carter

Acted. certified copy of Navy Dept. July 14. 1881 — July 25. 1881 Mr. Carter

Copy of No. 1315 to Secretary of Navy July 25. 1881 Mr. Carter

See Mr. Burgevine's 1319 of June 30. 1881

No. 1315.

United States Legation

Yokei Japan, June 9, 1881.

DEPARTMENT OF STATE
JUL 5 1881
RECEIVED

Mr. Bingham

to

The Honorable the Secretary of State.

Subject,

The arrival of the Russian Admiral Lessoffsky at Yokohama. His reception by the japanese Government and proposed return home via the United States.

Synopsis.

The Russian Admiral Lessoffsky's arrival at Yokohama on the 6th inst. His disabled condition. His return home by way of the United States.

and his desire to be favored with a through car from San Francisco to New York. His visit to the United States in 1863 with the Russian fleet bearing messages of good will from the Emperor of Russia to the President of the United States.

Mr. Bingham suggests whether our Government officials at San Francisco or New York might not aid the Admiral in obtaining the privileges of a through car.

No. 1315.

United States Legation,

Tokei, Japan, June 9, 1881.

Hon. James G. Blaine,

Secretary of State,

Sir:

I beg leave to acquaint you that on the 6th instant the Russian Admiral Lessoffsky who is also commissioned Ambassador arrived with his flag ship at Yokohama and was there met by members of the Privy Council of His Majesty the Emperor of Japan; also by the Japanese Admiral and Vice Admiral, and was by them conveyed to lodgings assigned to him in this Capital by the Imperial Government. The Admiral I regret to learn is still suffering from a severe injury (a broken limb) which occurred some eight months

ago by reason of which he can only move on crutches. He desires to return to Russia by way of the United States and expects to sail from Yokohama on the American Steamer "Tokio" about the 1st proximo. It has been mentioned to me to day by Madame de Struvé the wife of the Russian Minister in Japan, that it is very desirable that the Admiral on account of his crippled condition should be able to obtain a transfer in a through sleeping car from San Francisco to New York, and requested my good offices in that behalf.

Though the action of our government has not been invoked for this purpose it has seemed to me not improper that I should bring the matter to your notice believing as I do that you are not unmindful of the fact that Admiral

Lessoffsky was in command of the Russian Fleet which came to our Capital in 1863- in the darkest hour of our struggle for our national life bearing as it is understood messages of good will from his illustrious Sovereign the late Alexander II. to our then President, and ready under his orders if so requested to aid us in the great conflict and especially in the event that France and Great Britain or either of them should engage in armed intervention against us.

Should our government agents at San-Francisco by your instruction find it possible to promote the Admirals' wishes in the premises it cannot be doubted that such kindness would be greatly appreciated by him and his Emperor.

I understand that through cars are not usually run between San Francisco and New York.

I have the honor to be,

Sir,

Your obedient Servant,

Wm. A. Bingham

Meteorological Report
Navy Dept. July 7, 1881
Im. Circles

DEPARTMENT OF STATE
JUL 5 1881
RECEIVED

made

No 1316.

United States Legation
Tokei Japan June 9th 1881.

Mr Bingham.
to
The Honorable the Secretary of State,

Subject,
Report of the Imperial Meteorologi=
=cal Observatory Tokei Japan.

Enclosure
Report of the Imperial Meteorological
Observatory Tokei Japan for
January and February 1881.

1316

United States Legation
Tokei Japan June 9th 1881

Hon. James G. Blaine
Secretary of State,

Sir,

I have the honor to enclose for the information of our Signal Service the official report of observations taken by the Imperial Meteorological Observatory Tokei Japan from the 1st of January to the 1st of March last with Diagrams showing air pressure and temperature, tension of vapour, relative humidity, rainfall, force and direction of wind during the said months of January and February respectively.

I have the honor to be,

Sir,

Your obedient Servant.

Wm. A. Richardson

File

Meredith

No 1317.

United States Legation,
Tokei Japan June 20th 1881.

Mr. Bingham,
to
The Honorable the Secretary of State.

Subject.
Arrival of Commodore Shufeldt United States Navy en route for Peking, and notice by Japan Daily Herald that he seeks to negotiate a Treaty with Corea.

No 1317.

United States Legation,
Tokei Japan June 20th 1881.

Hon. James G. Blaine.
Secretary of State.

Sir.

I beg leave to inform you that Commodore R. W. Shufeldt U. S. Navy arrived here on the 11th instant en route for Peking. and, on the 14th instant sailed for Shanghai. Before he quitted Japan. the Japan Daily Herald (a British Journal published in Yokohama) noticed the Commodores arrival and stated that his business among other things was to negotiate a Treaty on behalf of the United States with Corea.

It scarcely admits of doubt that

that this notice was intended to prejudice the Coreans against any attempt on the part of the Commodore to negotiate such Treaty. As there are now in Japan some thirty Coreans who have come hither to enquire into the organization and administration of this govern=ment and the effect upon this people and their interests of foreign intercourse, it is to be presumed that this notice has come to the knowledge of these Commissioners and has been communicated by them to their government.

In my No 1126 dated May 31st 1880 I called the attention of the Department to a like publication in the same Journal concerning Commodore Shufeldts mission at that time to Corea, in which publication

that

that Journal spoke of the proffered cooperation with the Commodore of the Men of war & certain European Powers then in these waters, and volunteered to advise him that by such co-operation force could be opened for trade &c. to the European States, as well as to the United States.

It has been the effort for years (as I have before stated) of Great Britain acting in concert with other European States to control in her own interests, chiefly, all the Eastern Asiatic powers by Treaty regulations &c. leaving the United States no election in the premises save unconditional acquiescence in whatever Great Britain thus attempts or demands.

I

I have the honor to be,

Sir,

Your obedient Servant.

Wm. A. Bingham

Copy to Mr. Angell July 27. 1881. Mr. Cridler

No. 318. Also, copy of a print 3 Cs letter addressed to U.S. Consul at Nagasaki by Fr. Roest Consul at Osaka July 27. 1881 Mr. Cridler

Made

DEPARTMENT OF STATE JUL 18 1881 RECEIVED

United States Legation

Tokei Japan June 20th 1881.

Mr. Bingham

to

The Honorable the Secretary of State.

Subject.

Letter of the Chinese Minister in Japan to Mr. Bingham concerning his correspondence with Corea upon the question of establishing commercial relations with the United States &c.

Enclosure

Copy of Chinese Ministers letter.

No 1318.

United States Legation.
Tokei Japan June 20th 1881.

Hon. James G. Blaine.
Secretary of State.

Sir,

Referring to my No 1238 of date January 6th 1881 in relation to Mr. Angell's dispatch concerning Corea and also to my interviews with His Excellency Ho Ju-chang His Imperial Chinese Majesty's Chief Minister at this Court and his kind intervention with the Corean government to induce it to make a Treaty of Commerce and Friendship with the United States in accordance with the expressed wishes of the Chinese government I now have the honor to enclose a copy

1318

of

of a communication from Mr Ho
in which he reports the result of
his efforts in that behalf as com=
=municated to him by His Excellency
Chui Hung-chi formerly the Corean
Minister to this Court.
It is to be observed that this
gentleman informs Mr. Ho that
"the Corean government has been
" very desirous to hold intercourse
" with the United States of America
" but the people still have a little
" doubt about the advantages of
" foreign relations" and for that
reason Mr Ho's proposal for
opening negotiations with our
government has not been accept=
=ed. In my opinion Mr. Ho
and his government were moved
thus to urge Corea to make a
Treaty of Commerce and Friendship
with

with the United States
because at the time of their
voluntary action in the premi=
=ises, the Russian government
was threatening China, and it was
doubtless feared that Corea would
be first appropriated by Russia
as a base of operations, to prevent
which it was supposed by the
Chinese government to be essential
that Corea should by Treaty
assure to the United States certain
rights and privileges within its
waters and territory which
Russia would be bound to respect.
Now that Russia and China
have come to a good understanding
it is no longer deemed by China
(as I suppose) to be important, or
needful, that any such relations
between Corea and the United
States

States should be established.

I have the honor to be,

Sir,

Your obedient Servant,

Wm. A. Bingham

Copy

Enclosure in No 1318

Chinese Legation
Pekin June 16th 1881.

Dear Sir,

I have the honor to inform Your Excellency that I have lately received a private letter from H. E. Chin Kung-Chi, Korean Envoy who came to Japan last year, to the effect that the Korean government, being advised by me, have been very desirous to hold intercourse with the United States of America and other countries, but the people still have a little doubt about the advantages of foreign relations, so that at present my proposals on that matter cannot be carried out yet.

I am, yours very truly
(Signed) Ho Ju-Chang

Copy to Treasury July 29. 1881. Mr. Cridler.

Received July 25. 1881. Mr. Cridler.

Copy to Navy July 25. 1881. Mr. Cridler.

Le M. Bingham's No 1319 of June 9 1881

Mr. Bingham

No 1319.

DEPARTMENT OF STATE JUL 16 1881 RECEIVED

United States Legation

Tokei Japan June 20th 1881.

Mr. Bingham.

to

The Honorable the Secretary of State.

Subject.

Admiral Lessoffsky's sudden recall to St Petersburgh Russia. by way of the Suez Canal and his departure on the 19th instant by that route.

No 1319.

United States Legation
Tokei Japan June 20th 1881.

Hon. James G. Blaine.
Secretary of State.
Sir,

Referring to my No 1315-
of date the 9th instant in which
I informed you of the purpose
of the Russian Admiral Lessoffsky
to sail from Yokohama on the
1st proximo for San Francisco,
I beg leave to say that after
my dispatch was mailed and
forwarded per the outgoing
steamer - to wit: on the 11th instant,
I was notified that the Admiral
had received a telegram which
obliged him to return to St Peters-
-burgh by way of the Suez Canal
&c.

&c. Having called upon the Admiral on the following day he most cordially thanked me for my declared purpose to aid him if possible in obtaining a through car from San Francisco to New York and expressed his regret that he was not permitted again to visit the United States at the present time.

I have the honor to be,

Sir,

Your obedient Servant,

Wm. A. Leighton

Copy to Com. of Agriculture July 23. 1881. MW. Riddle

Made

No 1320.

United States Legation
Tokei Japan June 21st 1881.

Mr. Bingham,
To
The Honorable the Secretary of State,

Subject.
The establishment of a department of Agriculture and Commerce in Japan, and the Rules for assemblies to investigate Agriculture Commerce &c.

Enclosure.
Translation of Proclamation and Rules in reference to the above.

No 1320.

United States Legation
Tokei Japan June 21st 1881.

Hon. James G. Blaine.
Secretary of State.

Sir.

Referring to my No 1300
in relation to the establishment
by this government of a Depart=
=ment of Agriculture and Commerce
I now have the honor to enclose
herewith a translation of a
Proclamation issued on the 23rd
ultimo by His Excellency Mr Sanjo
His Imperial Japanese Majesty's
Prime Minister, together with
Rules for the government of
Assemblies for investigating the
subjects of Agriculture, Commerce
and Manufactures with a view

to

to the development of those industries.

This is another witness of the efforts constantly being made by His Imperial Japanese Majesty to employ all legitimate agencies to develope the resources of this Empire and better the condition of this people despite the refusal of Western nations to repeal the unjust restrictions of the convention of 1866.

How long will the free and enlightened people of the Western nations tolerate this great wrong? If our government would say to Japan- we consent to strike from our Treaty which we concluded in 1878 with His Imperial Japanese Majesty its 15th article and adopt in lieu there of reciprocal conditions; I believe it would work the liberation of this government from

from the oppressive and oppressive restrictions of the convention of 1866, and promote for all time our own commercial interests in this Empire.

I have the honor to be,

Sir.

Your obedient Servant.

Wm. A. Bingham

Enclosure with # 1328.

Translation.

No. 29.

Proclamation is hereby made that the following Rules for the Government of Assemblies for Investigating the Subjects of Agriculture Commerce and Manufactures have been enacted with a view to the establishment & development of said industries in the provinces of the Empire of Japan.

Sanyo Sanetomi,
Prime Minister.

May 23d 1881.

Rules.

Chapter I. City and Provincial Assemblies for Investigating the Subjects of Agriculture, Commerce & Manufactures.

Article I. An assembly for the investigation of the above subjects shall be located in each city or province.

Art. II This assembly shall have for its object the consideration of all

matters relating to agriculture, commerce and manufactures; especially the questions of transportation by sea and land; the opening up of roads; the improvement of harbors and rivers; drainage; the extermination of hurtful insects; the preventing of cattle diseases; the preservation of mountain forests; fertilization of lands; the kinds of animals and plants suitable to given districts; testing machinery; the construction of models and establishment of museums; modes of building; the opening or interdiction of markets; &c. It shall also take into consideration and render an opinion on any pertinent question brought before it by the Minister of Agriculture and Commerce, or by the Governor of a city or province as well as the subject of the prosperity or decline of agriculture commerce and manufactures and the subject of expenditure.

Art. III. The membership shall consist of from five to fifteen reputable farmers merchants and manufacturers, males,

over twenty five years of age who have resided at least three years in a given city or province chosen by the governor of the city or province. The term of service shall be three years. The members may be re-elected.

Art. IV. The governor of the city or province or his deputy shall be chairman.

Art. V. The Secretary shall be appointed by the governor of the city or province from among the officers under him.

Art. VI. Meetings shall be held at least once a year. When one fourth or more of the members make a request for a called meeting the Governor may grant it.

read to here

Art VII. The officers of the Department of Agriculture and Commerce, and the high officers of the city or provincial government having jurisdiction may sit as members and express their views but shall not be allowed to vote.

Art. VIII. Questions discussed shall be decided by a majority. When there is

atie the chairman shall have the decisive vote.

Art. IX. The members shall have their travelling expenses and daily allowance paid the same in amount as the members of the city & provincial Assemblies receive.

Art. X. The travelling expenses and daily allowance of members shall be paid out of the appropriation for promoting industries from the local taxes. Other expenses shall be paid from the funds appropriated for city or provincial Government pourposes.

Chapter II. Of District Societies.

Art. XI. In each district or union of adjacent districts in each city or province an Agricultural Society, a Mercantile Society or a Manufacturers Society may be established: Or there may be one general society for the promotion of agriculture commerce & manufactures established.

Art. XII. Such societies shall carry

on discussions in the interest of agriculture commerce & manufactures, shall take into consideration questions proposed by the governor of the city or province or by the Minister of Agriculture and Commerce and render their opinions on the same.

Art. XIII. Such Societies may also bring matters affecting the interests of agriculture commerce & manufactures to the attention of the local governor or Minister of Agriculture and Commerce.

Art. XIV. In order to the establishment of a Society the consent of the Minister of Agriculture and Commerce must be obtained through the primary local Assembly and through the governor of the city or province.

Art. XV. The members of the above mentioned agricultural Societies, and Societies of Manufacturers shall be males over twenty five years of age publicly elected by the manufacturers and venders of native productions who reside in the district and shall be approved by the local governor. The

members of the Mercantile Societies shall be elected by merchants and approved as above. Persons described in Art XVII of the Provincial Assembly Regulations (Idiots, Criminals &c. Translator) are disqualified.

Art. XVI. Electors must be householders, males, over twenty years of age, engaged in farming, trade or manufacturing, in the district, with the exceptions referred to in Art. XV above.

Art. XVIII. An Agricultural or Manufacturers' Society shall consist of not more than twenty five members. A Commercial Society shall consist of not more than fifty members. These shall elect a president and vice president by ballot who shall serve three years and may be re-elected.

Art. XVIII. The expenses of a society shall be paid by an assessment on the electors or from the district appropriation for such purposes.

Art. XIX. The by-laws of each society shall be drawn up by the society subject

to the approval of the Minister of Agriculture and Commerce obtained through the Governor of the city or province.

End.

DEPARTMENT OF STATE
JUL 18 1881
RECEIVED

No. 1321. United States Legation,

Tokei, Japan, June 22, 1881.

Mr. Bingham
to the
Honorable the Secretary of State.

Subject.

Mr. Bingham acknowledges the receipt of Department Instructions #82–5-87. and also one Circular Instruction. dated April 25-1881.

No. 1321.

United States Legation,

Tokei, Japan, June, 22, 1881.

Honorable James G. Blaine,

Secretary of State,

Washington.

Sir:

I have the honor to acknowledge the receipt of Instructions numbered respectively — 582. 583, 584, 585 586. & 587: the latter with enclosure and sub-enclosure. Also Circular Instruction of date April 25, 1881.

I have the honor to be,

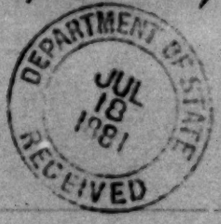
Sir,

Your obedient Servant,

Geo. H. Seybert

Wadde

No 1322,



United States Legation
Tokei Japan June 22nd 1881.

Mr. Bingham
to
The Honorable the Secretary of State,

Subject,
Acknowledging receipt of Storm flags for Legation and six copies of Foreign Relations for 1880,

No 1322.

United States Legation.

Tokei Japan June 22nd 1881.

Hon. James G. Blaine

Secretary of State,

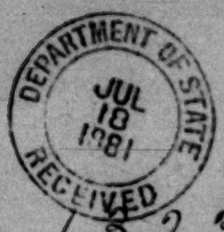
Sir,

I beg leave to acknowledge the receipt of two storm flags for the use of this Legation - also the receipt of six (6) copies of the volumn of Foreign Relations for 1880. for which be pleased to accept my thanks. One volumn of the above has been duly marked as the property of the United States, and has been placed in the Library of the Legation.

I have the honor to be,

Sir, Your obedient servant.

Jno C. Bingham



No 1323. Copy to Mess. July 22. 1881. Mr. Cridler

Made

United States Legation
Tokei Japan June 22nd 1881.

Mr Bingham
to
The Honorable the Secretary of State.

Subject
Astronomical observations by
Lieutenant Commander Green
United States Navy. completed
between Yokohama and Nagasaki.

No 1323.

United States Legation
Tokei Japan June 22nd 1881.

Hon. James G. Blaine.
Secretary of State.

Sir,

It gives me pleasure to inform you that I am advised by Lieutenant Commander Davis United States Navy who is associated with Lieutenant Commander Green United States Navy on special duty in Japan, China &c. that the astronomical observations in taking which Lieutenant Commander Green has been engaged with a view to determining secondary meridians of longitude between Yokohama and Nagasaki have been satisfactorily completed.

I

I have the honor to be

Sir,

Your obedient Servant,

Jno A. Bingham

Made

No 1324.

United States Legation

Tokei Japan June 22nd 1881.

Mr. Bingham.

to

The Honorable the Secretary of State.

Subject.

Ratification of the convention between the United States and Japan for the reimbursement of certain specified expenses in cases of shipwreck.

No 1324

United States Legation
Tokei Japan June 22nd 1881.

Hon. James G. Blaine.
Secretary of State.
Sir.

Referring to Instruction No. 586 in which you advise me that the Senate on the 23rd of April last had advised and consented to the ratification of the convention between the United States and Japan for the reimbursement of certain specified expenses in cases of shipwreck in either country and that the President had ratified the same, I beg leave to acquaint you that I have duly communicated the ratification thereof to His Imperial Japanese Majesty's Government.

Government.

I have the honor to be,

Sir,

Your obedient servant

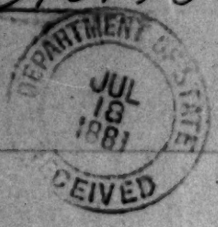
Jno A. Bingham

File

Book to Library July 19. 1881 M. Cutler

Order

No. 1325



United States Legation

Tokei, Japan, June 28th 1881

Mr. Bingham

to the

Honorable the Secretary of State.

Subject.

The Tokio University. its Professors, &c.

Enclosure

Copy of the "Calendar of the Department of Law, Science & Literature" in the Daigaku or Tokio University.

No. 1325

United States Legation,
Tokei, Japan, June 23, 1881.

Honorable James G. Blaine,
Secretary of State,
Washington.

Sir:

I take pleasure in transmitting herewith for your information a copy of the "Calendar of the Departments of Law, Science, and Literature in the Tokio Daigakkō" (University of Tokio) for the year 1880-81 or the year 2540-41 of the Empire of Japan.

It is to be noted that the historical Summary (p. 9) gives the date of the introduction of Western learning into Japan, early in the last century. The volume herewith shows to what extent all western learning is now being availed of in the Imperial

University for the instruction of Japanese youth.

I have marked in the margin of the list of Professors in the University the names of the Americans who hold professorships therein, each of whom I am pleased to say adorns and honors his office. Of these Mr. Thomas C. Mendenhall Ph. D. has resigned the chair of Experimental Physics to resume his professional duties in Columbus Ohio. He has acquitted himself most creditably and leaves Japan with the outgoing steamer.

I have the honor to be,

Sir;

Your obedient servant.

Jno. C. Brigham

Requisition to Hon Griffin July 23. 1881.

Acknowledge Rec't July 25. 1881 Mr Cutler

No 326.

United States Legation
Tokei Japan June 23rd 1881,

Mr. Bingham
to
The Honorable the Secretary of State.

Subject.
Requesting Stationary for the Legation.

No 1326.

United States Legation
Tokei Japan June 23rd 1881.

Hon. James G. Blaine,
Secretary of State,

Sir,

I have the honor most respectfully to request to be furnished with a supply of official dispatch paper and envelopes for the use of this Legation.

I have the honor to be,
Sir,
Your obedient servant,
Jno A. Bingham

Col Morgan

Washington D.C.
June 30. 1881.

Hon James G. Blaine.
Secretary of State
Washington D.C.

Sir:

I have the honor to enclose herewith my account for salary for the Quarter ending June 30, 1881. I have had the honor to draw upon you for the amount due me as salary for the Quarter ending the above date. viz: 625^{00}, and beg leave to enclose said draft herewith.

My last draft for salary (£128-8-7 or 625^{00}) dated March 31, 1881, was drawn upon Messrs Morton, Rose and Co, and was for salary due the Quarter ending that date, as per my account rendered to the Department.

I have the honor to be, Sir,
Your obedient servant,
D W Cleveland
Secy. U.S. Legation. Japan